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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Independent Expert on the promotion of a democratic and equitable international order

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Independent Expert on the promotion of a democratic and equitable international order, Livingstone Sewanyana, prepared in accordance with Council resolution 36/4.

Summary

In the present report, the first by the present mandate holder, the Independent Expert on the promotion of a democratic and equitable international order sets out his preliminary views and intended scope of work, highlighting the vision and priorities to be addressed within the framework of the mandate as set forth in Human Rights Council resolution 18/6 and subsequent resolutions on the subject, the latest of which is resolution 36/4.

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I. Introduction

1. The present report of the Independent Expert on the promotion of a democratic and equitable international order is submitted to the Human Rights Council in accordance with Council resolution 18/6 and subsequent resolutions 21/9, 25/15, 27/9, 30/29, 33/3 and 36/4 and is the first report of the current mandate holder since his appointment by the Council at its thirty-seventh session. The Independent Expert is requested to report regularly to the Council and to the General Assembly, pursuant to resolution 18/6 and paragraphs 11 and 12 of resolution 36/4.

2. The Independent Expert recalls that, in resolution 18/6 establishing the mandate, the Council broadly called for an international order in which people could enjoy the rights of international solidarity, development and self-determination; exercise effective sovereignty over their natural wealth and resources; freely pursue their economic, social and cultural development; have equal opportunity to participate in regional and international decision-making; and have a shared responsibility to address threats to international peace and security. As noted by the previous mandate holder (A/HRC/21/45 and Corr.1), relevant to resolution 18/6 are General Assembly resolutions 3201 (S-VI) on the Declaration on the Establishment of a New International Economic Order, 2625 (XXV) on the Declaration of Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations and 65/223 on the promotion of a democratic and equitable international order

3. The mandate calls for a holistic approach to the implementation of human rights, with due regard to the universality, indivisibility, interdependence and inalienability of civil, political, economic, social and cultural rights, and thus enjoins all stakeholders, including States and intergovernmental and non-governmental organizations, to cooperate to realize the aspirations expressed in the Charter and the Universal Declaration of Human Rights.

4. In the present report the Independent Expert presents his vision as the second holder of the mandate and outlines the approach he intends to take in giving full effect to the mandate with which he has been entrusted.

5. The report is inspired by the existing normative human rights framework that incorporates the purposes and principles of the Charter, the international human rights treaties and a plethora of human rights instruments, principles, declarations and resolutions, including those of the Human Rights Council, the General Assembly and regional mechanisms, that reaffirm our faith in fundamental human rights, dignity and the worth of the human person, in the equal rights of men and women and in the duty of States, small and large, to create conditions to promote social progress and better standards of life in larger freedom, while maintaining international peace and security.

6. Building on the work of the first mandate holder, Alfred Maurice de Zayas, who, through his expert consultations and thematic studies guided the implementation of the mandate for the first six years, the Independent Expert would like to explore current obstacles to the realization of genuine democracy and equitable development, identify home-grown solutions and share lessons learned. He will propose innovative approaches to building viable partnerships between Governments, the private sector and civil society. The Independent Expert will further focus on a number of thematic priorities, expanded on below, insofar as they have an impact on a democratic and equitable international order. Moreover, there is space within the mandate to critically reflect on how recommendations arising from these thematic priorities intersect with the Sustainable Development Goals.

7. The Independent Expert would like to participate actively in international forums and engage States as well as cooperate and engage with other special procedure mandate holders. He considers it absolutely necessary to coordinate his work with other United Nations mechanisms, including the Human Rights Council Advisory Committee and the human rights treaty bodies as well as the Office of the United Nations High Commissioner for Refugees, and multilateral institutions such as the World Bank, the International Monetary Fund (IMF), the World Trade Organization (WTO), the International Labour

Organization, the World Health Organization and the United Nations Educational, Scientific and Cultural Organization. He would like to consult with regional bodies including the African Union, the European Union, the Organization of American States, the Organization for Economic Cooperation and Development and the Organization of Islamic Cooperation. Moreover, the Independent Expert hopes to explore synergies with the private sector, civil society organizations and academia in all regions of the world.

8. The mandate holder considers "civic participation" to be a core value and a key element in the realization of a democratic and equitable international order. In the pursuit of the goals of the mandate, the Independent Expert will seek to examine current State practices and propose measures necessary for States to reduce the growing social and economic disparities that are a threat to world peace and sustainable development. The Independent Expert believes that a new world order is possible, one that is based on universal respect for human rights, social justice, rule of law and equitable development.

9. The activities under the mandate will include thematic studies on identified focus areas, consultations and dialogue at the national, regional and international levels with relevant stakeholders, including States, United Nations agencies, intergovernmental bodies, regional organizations, the private sector, civil society and the academy. The Independent Expert will seek to participate actively in key international debates on democracy, elections, migration, donor financing and public-sector reform. In addition to participating in conferences and conducting thematic studies, he will carry out country visits and dialogue with Governments on measures necessary to uphold agreed standards on democracy and sustainable development, as well as identify obstacles — whether structural, systemic or otherwise — to the realization of equitable development. The Independent Expert will, where appropriate, provide advice, carry out advocacy and raise concerns through the established working methods of the special procedures, including issuing communications and public statements, jointly with other mandate holders when relevant, paying special attention to gender and disability perspectives. He will engage with States to ensure that they uphold their human rights obligations and propose measures that promote active citizenship and enhance economic progress and equity, taking into account the political, economic and social realities among individual Member States.

10. In the present report the Independent Expert first provides a scope for the mandate. He then outlines a number of thematic priorities that he would like to study and report on during his tenure. In the final section he spells out the methodological approach that he will deploy in carrying out his mandate.

II. Mandate

11. According to paragraph 14 of resolution 18/6, the Independent Expert is mandated:

(a) To identify possible obstacles to the promotion and protection of a democratic and equitable international order, and to submit proposals and/or recommendations to the Human Rights Council on possible actions in that regard;

(b) To identify best practices in the promotion of a democratic and equitable international order at the local, national, regional and international levels;

(c) To raise awareness concerning the importance of promoting and protecting a democratic and equitable international order;

(d) To work in cooperation with States in order to foster the adoption of measures at the local, national, regional and international levels aimed at the promotion of a democratic and equitable international order;

(e) To work in close coordination, while avoiding unnecessary duplication, with intergovernmental and non-governmental organizations, other special procedures of the Human Rights Council, international financial institutions, as well as with other relevant actors representing the broadest range of interests and experiences, within their respective mandates, including by attending and following up on relevant international conferences and events;

(f) To integrate a gender perspective and disabilities perspective into his or her work;

(g) To report regularly to the Human Rights Council and the General Assembly in accordance with their respective programmes of work;

(h) To support the strengthening and promotion of democracy, development and respect for human rights and fundamental freedoms in the entire world.

12. The mandate calls for the identification of obstacles and best practices and the formulation of proposals and recommendations on possible action. Whereas there exists a rich normative framework for the realization of a democratic and equitable international order, the challenge lies with current practice. There is a disconnect between the theory and the practice. The mandate holder will interrogate current practice to identify gaps and showcase existing models where promising outcomes have been achieved. Through consultations, studies and cooperation with other mandate holders, the Independent Expert will seek to broaden public understanding of the mandate at all levels.

III. Thematic priorities

13. The Independent Expert proposes to address a number of thematic priorities over the course of his tenure, namely: (a) forms and practice of democracy; (b) public participation and decision-making in multilateral institutions; (c) corruption and open government; (d) the emergence of global governance forums; (e) global economic challenges; and (f) youth facing fragility and violence as well as opportunity. While these themes reflect key areas of interest to the mandate holder, they are not exhaustive and adjustments could be made following further comments and suggestions. The Independent Expert seeks views on these issues as well as reflections on obstacles and good practices related to the promotion of a democratic and equitable international order. He would welcome submissions of information on these themes, as well as practical examples of their impact on human rights, at the email address ie-internationalorder@ohchr.org.

A. Forms and practice of democracy

14. The mandate holder is aware that, although the notion of "democracy" has been a subject of intense debate for centuries, and despite the fact that democracy is considered a "universal value", it is far from being realized globally.[1] The world remains in a state of flux and is witnessing the retreat of democracy through the rise of populist political parties and the creeping tyranny of authoritarian leaders. As his predecessor has rightly observed, democracy remains a much-contested notion to which States attribute varying content. The focus of future work in this area will be less on the theoretical construct but more on the practice of democracy at the national level. What explains the resurgence of the different variants of populism and nationalism in various parts of the world? What is the relationship between this resurgence and conflict? Can it be attributed to the lack of democracy or the distorted application of the norm? Can it also be attributed to the outright failure by democratic models of governance to deliver the desired social and economic transformation demanded by the electorate(s)? We need to interrogate the existing practices across the world and identify obstacles to the growth of democracy and equitable development. Are the core values of democracy — participation, inclusion, equity, reciprocity, dialogue and compromise, fair competition and respect for rights — being compromised? What explains the emergence of so-called models: meritocracy, militarized democracy and dictatorship disguised as democracy? To what extent have ethnicity, struggle for resources, denial of rights, militarism, the rise of religious and cultural fundamentalism and overemphasis on national sovereignty contributed to growing inequalities, insecurity and social injustice within nations?

[1] Amartya Sen, "Democracy as a universal value", *Journal of Democracy*, vol. 10, No. 3 (July 1999).

15. The mandate holder acknowledges Human Rights Council resolution 19/36, in which the Council related democracy to human rights and the rule of law, and is mindful of the fact that, while democracies share common features, there is no single model of democracy and that democracy does not belong exclusively to any country or region.[2] In addition, he stresses the necessity for due respect for sovereignty and the right to self-determination. However, there is a need to undertake a deep look at existing mechanisms and structures to determine how democracy has been promoted, undermined or modified based on ethnic, political or economic considerations and to make recommendations on how democracy can be rethought and customized to build resilience and yield stability. Moreover, the Independent Expert is mindful of the gap between the normative human rights framework providing that women have a right to participate in national and international political systems[3] and the reality of their persistent exclusion from public affairs.[4] Thus, his evaluation of ways to strengthen democratic processes will necessarily examine how these systems are inclusive of, and responsive to, women constituents, as well as those of other marginalized groups.

16. Democracy thrives when citizens exercise their right to choose their leaders in an atmosphere free from violence, coercion, duress or manipulation. The Independent Expert is aware that flawed elections in many parts of the world have resulted in conflict, internal displacement, arbitrary deprivation of life and, too often, economic disruption. Elections should not be mere rituals exercised periodically but should be genuine and reflect the free expression and will of the people (see A/HRC/24/38, paras. 15 and 19). Free and fair elections cannot be held without respect for the rule of law and independent institutions such as an independent election management body, an independent judiciary and a free press. The independent institutions must also be held accountable for the use of their power, more so when they succumb to political pressures, adopt a partisan stance and use their power and influence to subvert the will of the people.

17. The mandate holder is aware of General Assembly resolution 50/172, in which the Assembly recognized that there is no single political system or universal model for electoral processes equally suited to all nations and their peoples, and that political systems and electoral processes are subject to historical, political, cultural and religious factors; however, too often flawed elections are a threat to a democratic and equitable international order. The mandate holder would like to engage States on current obstacles to free, fair and inclusive elections and, where appropriate, identify best practices. He will seek views and expert opinions on electoral systems and procedures and their impact on human rights. Areas of interest include appointment procedures for election management bodies, accreditation of observers, recruitment of polling officials, conduct of elections, transmission and declaration of results, media access, the right to organize and assemble, adherence to electoral laws, handling of election disputes and implementation of recommendations of election observer reports.

B. Public participation and decision-making in multilateral institutions

18. The right to take part in the conduct of public affairs is essential to the realization of an international order that is democratic and equitable. Article 21 of the Universal Declaration of Human Rights and article 25 of the International Covenant on Civil and Political Rights recognize the right and opportunity of every citizen to take part in the conduct of public affairs, directly or through freely chosen representatives. The right to

[2] See paragraph 135 of General Assembly resolution 60/1.

[3] Universal Declaration of Human Rights, art. 12; International Covenant on Civil and Political Rights, arts. 3 and 25; Convention on the Elimination of All Forms of Discrimination against Women, arts. 3 and 7–8; and Committee on the Elimination of Discrimination against Women, general recommendation No. 23 (1997) on women in public life. See also Sustainable Development Goals target 5.5, seeking to ensure women's full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life.

[4] See, for example, the report of the Working Group on the issue of discrimination against women in law and practice (A/HRC/23/50) focused on women's participation in political and public life.

participate in decision-making is not restricted to local affairs but extends to global institutions such as the United Nations, the World Bank, IMF and WTO, where the right to be heard should be upheld. The mandate holder is aware that the United Nations High Commissioner for Human Rights has noted that human rights, democracy and the rule of law are as much a part of the United Nations brand as peacekeeping and development assistance and that people are demanding respect of the rule of law, including full participation in decisions that affected their lives.[5] The mandate holder is also aware that there is a significant body of world opinion that contends that citizens should participate beyond national boundaries as major public decisions are increasingly being taken beyond the nation State.

19. In this respect, the Independent Expert intends to examine how the right to participate in public affairs could be better realized in multilateral forums, such as through exploration of how the Human Rights Committee's general comment No. 25 (1996) on participation in public affairs and the right to vote and the draft guidelines on the effective implementation of the right to participate in public affairs which the Human Rights Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to prepare for presentation to the Council at its thirty-ninth session[6] could be applied to multilateral spheres. At present, for example, the General Assembly is composed of government representatives, with limited space for civil society. In addition, despite provisions in articles 7 and 8 of the Convention on the Elimination of All Forms of Discrimination against Women recognizing the right of women to participate not only in public and political life on a national level but also in representative capacities at the international level, the highest-ever percentages of women representatives to the Security Council and the General Assembly were about 27 and 19 per cent, respectively, in 2016.[7] Further, given the impact of international decision-making on a broad cross-section of populations, the previous mandate holder has expressed support for global public opinion polling on such matters as peace, the environment and the common heritage of mankind. He has also expressed support for the inclusion of citizens in the global decision-making body through the establishment of a United Nations parliamentary assembly. The Independent Expert would like to engage stakeholders on the progress and viability of creating such mechanisms whereby the perspectives of civil society, and those of other alternative voices, can be taken into account in the global decision-making structures.

20. Whereas multilateral institutions such as the United Nations, WTO and the Bretton Woods institutions have shaped the international economic system, more needs to be done to make them more responsive and inclusive; this is critical to enable these agencies to address current global challenges. The Independent Expert is aware of efforts by the World Bank and IMF to engage with civil society to achieve legitimacy and increase development effectiveness.[8] As global institutions, they have an obligation to make decisions in accordance with such basic principles of democratic governance as transparency, inclusivity, responsiveness and accountability. Participation in decision-making requires that all stakeholders have the opportunity to influence and share control over development initiatives and the decisions and resources that affect their lives.

21. The Independent Expert would like to build on previous work in these areas and engage stakeholders on the progress made in promoting inclusive multilateral institutions, with a consequent look at how that has affected a democratic and equitable international order.

[5] Speech by the United Nations High Commissioner for Human Rights at the meeting of the United Nations System Chief Executives Board for Coordination at its second regular session of 2011.

[6] See Human Rights Council resolution 33/22.

[7] UN News, "Feature: A conversation with female ambassadors about the UN Security Council", 17 March 2016.

[8] Victoria Kwakwa, "Multilateralism for an inclusive world", World Bank, 1 November 2017.

C. Corruption and open government

22. The Independent Expert is alive to the adverse effects of corruption on the realization of a democratic and equitable international order and appreciates the substantial work carried out in this area. The adoption of Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, which aim to prevent adverse human rights impacts of corporate activity, represents significant progress in this respect. However, as the previous mandate holder has observed (see A/HRC/37/63, paras. 59–62), the lack of an enforcement mechanism undermines the Principles' effectiveness. There is a compelling need to adopt a legally binding convention on corporate social responsibility, and to impose civil and penal liability on transnational corporations, as a way of protecting rights holders from violations enabled by corrupt Governments, investors and speculators. Beyond treaty making, the mandate holder would like to engage States and other stakeholders on good practices that demonstrate effective private-public partnership, the enforcement of labour rights and environmental protection, as well as businesses' commitment to non-discrimination and other rights-respecting practices.

23. The rights to freedom of opinion and expression (article 19 of the Universal Declaration of Human Rights and article 19 of the International Covenant on Civil and Political Rights), as well as those of peaceful assembly and association (article 20 of the Universal Declaration and articles 21 and 22 of the Covenant), are a cornerstone of the realization of a democratic and equitable international order. Without an enabling environment, citizens cannot freely participate and demand accountable and responsive governance. Under the principle of "open government", countries pledge to protect civil society organizations as a means of becoming more transparent, more accountable and more responsive to their own citizens.[9] Open government requires openness to civic participation and engagement in policymaking and governance, including through the protection of civil liberties. Under the concept of open government, States should promote freedom of association by taking measures to remove barriers to registration and access to international resources, tax benefits and individual and corporate donations, as well as promote civil society organization-government reform (see A/68/299, para. 43).

24. Recognizing the dangers faced by anti-corruption campaigners as well as other human rights defenders working in the field of good governance, it would also be important to analyse the connection between repression of civic activity and increased inequity. In this regard, the Independent Expert is interested in gathering information about citizen monitoring and the space given to civil society to participate and contribute to the work of national and international anti-corruption bodies.

25. Moreover, the Independent Expert envisions further reflections on measures for promoting accountability for corruption. In addition to exploring the role of national and international courts, he plans to dialogue with stakeholders about the international cooperation that exists — and that could be further developed — to tackle the transnational element of corruption, whether through training and the sharing of good practices, in the provision of mutual legal assistance or by cooperation in the area of stolen asset recovery.

D. Emergence of global governance forums

26. In an increasingly interconnected world, it is not only within international organizations that decisions are taken on a multilateral basis. As noted by the previous mandate holder (see A/HRC/37/63, para. 9), new global spaces besides the United Nations have emerged where international priorities are set. These intergovernmental, multisectoral and private groupings, such as the Group of Seven (G7), the Group of 20 (G20), the Group of 77 (G77), the World Economic Forum, the Bilderberg Group, the Trilateral Commission, the World Social Forum and the Community of Democracies, play a role in developing the framework and function of the international order. Their meetings and policies invite

[9] See the Open Government Declaration adopted by the Open Government Partnership in 2011.

intense public scrutiny and even protests, demonstrating the scope of their influence on global governance and the unique positions they occupy as convenors of the world's leaders and global thinkers. Moreover, these groupings will have added importance in the coming years given the increasingly cross-border nature of the world's political and economic challenges.

27. As such, it would be worthwhile to study their constitutions and practices, applying the principles of transparency, participation and accountability in order to develop recommendations on strengthening their democratic governance and human rights impact. How can global governance forums become more accessible and responsive to the voices of people and groups previously excluded from international decision-making bodies but whose lives and livelihoods are affected by the decisions taken? To what extent has women's participation been encouraged and realized in practice? What role should global governance forums play in sensitizing not only national Governments but also business, civic and local leaders on the centrality of human rights? Are there lessons to be drawn in terms of promoting a shared responsibility for managing global challenges?

28. The Independent Expert would like to encourage stakeholders' contributions on this topic and, by doing so, draw lessons for the further strengthening of the global system.

E. Global economic challenges

29. The Independent Expert recognizes that the regularly evolving global economic system poses challenges for the protection of human rights. Rapid technological advancement and changing consumer preferences have disrupted traditional labour markets. Economic crises have threatened progress in terms of sustainable development, triggered sharp reductions in social spending and precipitated drawbacks with respect to international cooperative commitments. In many countries, unemployment persists and wages have stagnated, adding to already present social and economic inequalities. Bleak economic outlooks have contributed to record numbers of migrants worldwide. In addition, the unregulated activities of corporations have had collateral effects on standards of living and the right to a healthy environment both within and outside national borders. Meanwhile, political uncertainty poses a danger to economic stability. These realities have had a disproportionately negative impact on those whose economic situations were already precarious, such as women, persons with disabilities and older persons.[10]

30. International responses have so far proven insufficient to stem the causes and consequences of global economic challenges. Austerity measures taken in the absence of human rights standards are said to have compounded the harms of economic crises by encouraging States to privatize social protection programmes and, consequently, the enjoyment of economic and social rights by the poorest. Classical approaches to international investment and development have been scrutinized for promoting economic growth without due regard for equity and human rights. Whereas there have been positive developments in the policy of the international financial institutions, such as through reform of environmental and social safeguards and the embracing of the Sustainable Development Goals as guiding objectives, as mentioned above there is nevertheless still room to improve participation and representation in multilateral institutions. Moreover, civil society organizations poised to comment on financial policy have faced obstacles to organizing, technical and capacity limitations or outright intimidation and reprisals.

31. The Independent Expert would welcome suggestions on how the international community could better respond to these challenges in a way that promotes a world order that is more democratic and equitable.

[10] OHCHR, *Report on Austerity Measures and Economic and Social Rights* (Geneva, 2013), pp. 7–9.

F. Youth facing fragility, violence and opportunity

32. Fragile contexts impede the enjoyment of fundamental human rights by the society and threaten democratic institutions and processes. Youth,[11] in particular, face unique challenges and are especially vulnerable in uncertain environments. This is particularly the case because of the social construction of the transition between childhood and adulthood in which young people are made to bear the responsibilities of adulthood despite marginalization by society and restricted autonomy. For example, economic self-sufficiency is generally recognized as an important marker in the transition to adulthood. However, limited access to resources, education, training, employment and a lack of economic opportunities constrain youth's prospects.[12] In extreme situations, a lack of opportunity may push young people to find alternative and sometimes illegal means to secure finances.

33. Despite accounting for one out of every six people worldwide,[13] youth are severely underrepresented in national and international governing bodies. Age limits that prevent voting and running for office can disenfranchise young people at the national level, as can the lack of formal, dedicated structures to ensure youth participation in decision-making.[14] The space for youth participation in multilateral settings is particularly limited, raising the question of how responsive those forums are to the concerns of young people and future generations.

34. In addition, when States fail to provide an equal space for the economic empowerment of all, youth are particularly affected. Challenges to accessing quality and market-appropriate education affect the human development and economic prospects of young people. The paucity of paid occupational opportunities, whether they be entry-level employment positions, on-the-job training or apprenticeships, has long-term effects on the economic outcomes and political influence of young people.[15] Moreover, the fact that young people may legally be paid according to pay scales that differ from those of older adults can result in their exploitation.[16] For young women, issues such as lower employment rates, limited access to education and socially imposed constrictions reduce their economic and political power.[17] In contexts where the distribution of resources is skewed against them, youth may lose faith in the ability of democratic processes to restore economic equity. In some cases, this has led to youth becoming susceptible to recruitment by criminal gangs, separatist movements and terrorist organizations and has inadvertently made the State a common "object of aggression".

35. The mandate holder would like to seek expert opinions and interrogate the nexus between youth, fragility, violence and opportunity.

IV. Methodology

36. The Independent Expert will adopt several working methods to execute his mandate. These include, but are not limited to, thematic studies, expert consultations, country visits, participation in international forums, issuance of communications and cooperation with other mandate holders.

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[11] Following the General Assembly definition, "youth" is defined as individuals aged between 15 and 24. See, for example, resolution 56/117, para. 15 and resolution 62/126, para. 25.

[12] United Nations, "Youth population trends and sustainable development", Population Facts, May 2015, p. 1; and OHCHR, "Expert meeting on the human rights of youth: executive summary and outcomes", 18 September 2013.

[13] United Nations, Population Facts, May 2015.

[14] See European Youth Forum, "Human Rights Council resolution 35/14: OHCHR study on youth and human rights", p. 3.

[15] Ibid., p. 4.

[16] OHCHR, "Expert meeting on the human rights of youth", p. 2.

[17] Ibid., p. 3.

A. Thematic studies

37. The Independent Expert will first undertake thematic studies, drawing from the topics discussed above. In the annual reports that he will produce as a result of these thematic studies he will summarize his findings on particular subjects and provide guidance and recommendations to Member States, intergovernmental agencies, civil society, private sector actors and other stakeholders.

38. Follow-up reports on these thematic studies may be submitted to the Human Rights Council and the General Assembly as deemed appropriate.

B. Expert consultations

39. The Independent Expert will convene expert meetings and consultations, bringing together participants from academia, civil society, the private sector and international organizations to interrogate the selected themes further. These consultations will aid the mandate holder in identifying obstacles or best practices on selected themes. The recommendations arising from such meetings will further inform the regular reports.

C. Country visits

40. The Independent Expert also plans to undertake country visits to examine obstacles to, and best practices in, the promotion and protection of a democratic and equitable international order in more depth. The Independent Expert wishes to thank those countries that have extended standing invitations to mandate holders, and he intends to make additional requests for visit invitations in order to further explore, within particular country contexts, the themes elaborated above. In anticipation of carrying out country visits, the Independent Expert will develop a methodology applicable to the mandate that defines the scope of inquiry for the visits. During such visits, the mandate holder will seek to gather information on action by Governments in promoting democratic governance, including government priorities and any steps taken to implement treaty obligations, and to identify both obstacles and good practices. The Independent Expert will also hold meetings with a range of stakeholders, including government authorities of the countries in question, national human rights institutions, civil society and the private sector.

D. Participation in international forums

41. Aware that in its resolution 18/6 the Human Rights Council urged all stakeholders — including States, intergovernmental and non-governmental organizations, international financial institutions, other special procedures and all relevant actors — to cooperate with the mandate holder in the discharge of his mandate, the Independent Expert will seek collaboration and enhance dialogue across the board.

42. The Independent Expert is keen to participate in international forums to raise awareness concerning the importance of promoting and protecting a democratic and equitable international order. In such forums, the mandate holder will contribute to discussions on a democratic and equitable international order that may be carried out by national and regional institutions; the Bretton Woods institutions; regional groupings such as the African Union, the European Union, the Organization of American States and the Organization of Islamic Cooperation; other intergovernmental groupings such as the Organization for Economic Cooperation and Development and the Community of Democracies; civil society organizations such as the World Economic Forum and the World Social Forum; United Nations agencies; the private sector; and academia.

43. Engaging in dialogue with other stakeholders contributes to better understanding of the mandate and the normative framework and can trigger global consensus on issues raised.

E. Communication and cooperation with other mandate holders

44. The Independent Expert recognizes that the scope of the mandate incorporates a wide range of human rights issues and concerns. While the interlinking of all human rights, including civil, political, economic, social and cultural rights, gives the Independent Expert wide latitude, he is mindful of the need to cooperate with other mandate holders in executing his mandate and connecting it to others. In this regard, themes addressed above may be pursued in consultation with special procedure mandate holders working on the rights to freedom of peaceful assembly and of association, freedom of opinion and expression, the situation of human rights defenders, violence and discrimination against women, the right to development, foreign debt, extreme poverty, international solidarity and the human rights impact of transnational corporations and other business enterprises, among others.

45. In addition, the Independent Expert envisages the possibility of developing, as appropriate, a series of joint actions with other mandate holders, including issuing joint communications and undertaking joint country visits where there are intersecting interest areas in a particular country, individual cases of common concern, violations of human rights that implicate democratic principles or equity, or reprisals.

V. Conclusion

46. **In the present report the Independent Expert presents the vision and priorities which he wishes to share with Member States and other stakeholders regarding the way in which he intends to execute the mandate, all the while working in a spirit of openness, frankness and transparency.**

47. **The mandate requires a holistic approach, ensuring that all rights are promoted and protected in an environment that gives due recognition to issues of participation, inclusion and transparency.**

48. **The Independent Expert intends to work closely with a broad cross-section of stakeholders, including Governments, intergovernmental organizations, regional organizations and private sector actors, to create a better understanding of the need to promote a democratic and equitable international order. In addition, he looks forward to consulting with a broad range of civil society organizations to further increase knowledge of, and engagement with, the mandate.**

49. **It is the desire of the Independent Expert to document his findings and any difficulties encountered and lessons learned, sharing these lessons with the Council and all relevant stakeholders.**

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Report of the Independent Expert on the promotion of a democratic and equitable international order on his mission to the Bolivarian Republic of Venezuela and Ecuador*

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Independent Expert on the promotion of a democratic and equitable international order, Alfred de Zayas, on his mission to the Bolivarian Republic of Venezuela and Ecuador, pursuant to Council resolution 36/4.

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** Circulated in the languages of submission and in Spanish only.

I. Introduction

1. The present report summarizes the results of the mission of the Independent Expert on the promotion of a democratic and equitable international order to the Bolivarian Republic of Venezuela and Ecuador, two member States of the Bolivarian Alliance for the Peoples of Our America,[1] at the invitation of the respective Governments. The mission focused on alternative social and economic models and their implications for a democratic and equitable international order, with one leg in the Bolivarian Republic of Venezuela from 26 November to 4 December and another in Ecuador from 4 to 9 December 2017 (see annex I). The particularities of each country are sui generis and should not be amalgamated. The parameters of the mission were announced in a statement issued on 27 November 2017.[2]

2. The Human Rights Council, in its resolution 18/6 creating the mandate of the Independent Expert, reaffirmed the determination to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, to promote social progress and better standards of life in larger freedom. It also reaffirmed the need to continue working urgently for the establishment of an international economic order based on equity, sovereign equality, interdependence, common interest and cooperation among all States, irrespective of their economic and social systems. It instructed the mandate holder to work in cooperation with States in order to foster the adoption of measures at the local, national, regional and international levels aimed at the promotion and protection of a democratic and equitable international order.

3. The duty of the special procedures is to learn about the situations on the ground, listen to stakeholders on all sides, evaluate documents, ask targeted questions, and formulate constructive recommendations. A result-oriented mission aims at understanding the problems in a political, economic, psychological and historical context, so as to propose measures to better realize all human rights. A comprehensive approach requires, inter alia, consideration of the constitutions, laws and practices of States, as well as of reports by intergovernmental organizations and conferences, including the Economic and Social Council (ECOSOC), the World Health Organization (WHO), the International Labour Organization (ILO), the Food and Agriculture Organization of the United Nations (FAO), the Organization of American States, the Inter-American Commission on Human Rights, the Community of Latin American and Caribbean States (CELAC), the Bolivarian Alliance for the Peoples of Our America, the Latin American Economic System (SELA), the Southern Common Market (MERCOSUR), the Union of South American Nations, the Non-Aligned Movement, Summits of the Americas and People's Summits, reports issued by the Office of the United Nations High Commissioner for Human Rights, national reports submitted for the universal periodic review and State party reports to the treaty bodies. In drafting the present report, the Independent Expert benefited from studying mission reports by the Independent Expert on human rights and international solidarity, Virginia Dandan, the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Juan Pablo Bohoslavsky, and the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, Idriss Jazairy. He also consulted publications by Human Rights Watch, Amnesty International, the International Commission of Jurists, the Fundación Latinoamericana por los Derechos Humanos y el Desarrollo Social, civil society organizations and universities (see annexes II and VII).

4. As one of the few special procedure mandate holders to be given access to the Bolivarian Republic of Venezuela and Ecuador, expectations for the mission were high.

[1] https://albainfo.org/; www.sela.org/media/2087752/di-11-alba-tcp-ing.pdf.
The Peoples' Trade Agreement emerged in contrast to the proposed Free Trade Area of the Americas, which was never adopted. See www.ftaa-alca.org/alca_e.asp.

[2] www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22457&LangID=E.

While the Independent Expert could not fulfil the hopes of some sectors of civil society and remain within the parameters of his mandate, he listened to their grievances and transmitted their concerns to the competent rapporteurs and working groups. He informed his interlocutors that he was not "the United Nations", a super-rapporteur, a plenipotentiary or a country rapporteur, but an independent expert for international order. He invited interlocutors to give him information and petitions on issues which could be examined in depth by the Special Rapporteurs on the promotion and protection of the right to freedom of opinion and expression, on the rights to freedom of peaceful assembly and of association, on the independence of judges and lawyers, on the right to food, on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, on the rights of indigenous peoples, and by the Working Group on Arbitrary Detention. He took the opportunity of informing government authorities of these concerns, which he incorporated into his preliminary recommendations.

5. The present report gives a fresh look at the realities of the Bolivarian Republic of Venezuela and Ecuador, two countries that have adopted differing socioeconomic models when tackling internal issues of poverty, health care, housing and education. In both countries, the Independent Expert learned of problems associated with corruption, financial constraints, para-institutional failures, and lingering difficulties in ensuring free, prior and informed consent in the extractive field, particularly concerning indigenous communities. In the Bolivarian Republic of Venezuela, he observed the adverse impacts of inflation, price controls,[3] contraband,[4] inefficient distribution, mismanagement, and repression of dissent.

6. He listened to hundreds of stakeholders, including representatives of United Nations agencies and the Organization of American States (OAS), and received a wealth of information. The visits included meetings with ministers of both countries, ambassadors, diplomats, government officials, church leaders, academics, economists, students, and civil society organizations. In particular cases, he was approached by, and heard the stories of, individual victims. He balanced his meetings between different groups and was proactive in demanding targeted information. After the mission, he requested and received additional information, which he duly reflected, confident that the dialogue begun with each Government will continue through the visits of other rapporteurs.

7. His methodology followed the principle *audiatur et altera pars* (listen to all sides), and the letter and spirit of the Code of Conduct for Special Procedures Mandate Holders of the Human Rights Council, article 3 (a) of which stipulates that mandate holders shall act in an independent capacity and exercise their functions in accordance with their mandate. Article 6 requires mandate holders to establish the facts, based on objective, reliable information emanating from relevant credible sources that they have duly cross-checked to the best extent possible; take into account in a comprehensive and timely manner in particular information provided by the State concerned on situations relevant to their mandate; evaluate all information in the light of internationally recognized human rights standards relevant to their mandate, and of international conventions to which the State concerned is a party. In assessing the evidence, the Independent Expert was critical both of governmental and civil society sources, conscious of the possibility of distortions and suppression of evidence. He considered whether specific cases were representative and avoided extrapolation. He kept an open mind, ready to change perspective in the light of evidence received from stakeholders on all sides.

8. After his mission, he continued to follow developments in the Bolivarian Republic of Venezuela, including the refusal of the opposition to sign the negotiated agreement of 7

[3] http://reason.com/archives/2017/09/19/venezuelan-price-controls-lead-to-predic.

[4] www.fenavi.org/index.php?option=com_content&view=article&id=2914:el-contrabando-desde-venezuela-tiene-al-menos-35-rutas-de-entrada-por-el-norte-de-santander&catid=293:centro-de-noticias&Itemid=1363;
www.semana.com/nacion/articulo/contrabando-de-medicamentos-negocio-de-alto-costo/400145-3;
www.elpais.com.uy/economia-y-mercado/venezuela-hunde-contrabando-florece.html;
www.infobae.com/politica/2016/07/04/desbaratan-millonario-contrabando-de-medicamentos-a-venezuela-de-un-empresario-ligado-a-de-vido/.

February 2018, the Declaration of the Summit of the Americas[5] and that of the People's Summit,[6] both held in Lima in April 2018.

9. Having arrived at his own diagnoses, he proposes how best to enhance the enjoyment of all human rights by the populations of both countries, including through dialogue, increased international cooperation, and reform of treaties, legislation and practices. The mission examined efforts to advance social progress and better standards of living consistent with the provisions of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the agendas of the World Social Forums since the first one was held in 2001 in Porto Alegre, Brazil. He paid special attention to the reports presented by the Bolivarian Republic of Venezuela and Ecuador to the Human Rights Committee and the Committee on Economic, Social and Cultural Rights and studied the concluding observations of those bodies. He compared their analyses with the relevant reports issued by the Inter-American Commission on Human Rights between 2013 and 2018[7] and the responses of the Bolivarian Republic of Venezuela and Ecuador thereto.

10. The present report considers the relevance of General Assembly resolutions on international order, including 2625 (XXV) on friendly relations, 72/4 on the United States embargo against Cuba, and 60/1 on the 2005 World Summit Outcome, which reaffirms that democracy is a universal value based on the freely expressed will of people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives, that democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing, and that while democracies share common features, there is no single model of democracy. Thus, the models of democracy of the "Revolución Bolivariana"[8] in the Bolivarian Republic of Venezuela and the "Revolución Ciudadana"[9] in Ecuador deserve attention.[10]

11. The socioeconomic models prevalent in both countries, as well as in the Plurinational State of Bolivia, Cuba and Nicaragua, reveal possibilities of greater regional integration and cooperation with international organizations, particularly the United Nations system, which can assist governments to achieve social progress and strengthen civil liberties. The Independent Expert noted the eradication of illiteracy,[11] free education from primary school to university, and programmes to reduce extreme poverty, provide

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[5] Sixteen States issued the Declaration on Venezuela, calling on the Government to ensure that the elections were conducted in a free, fair and transparent manner.

[6] "Condenamos enérgicamente la agresión imperialista, la guerra económica y el acoso político contra la Venezuela Bolivariana. Exigimos respeto a la soberanía de la patria del pueblo venezolano que desde 1999 inició un proceso constituyente popular que ha marcado la senda … por la unidad latinoamericana … exigimos el cese de las sanciones ilegítimas y unilaterales contra el pueblo bolivariano, rechazamos la pretensión de la intervención militar en Venezuela bajo el pretexto de ayuda humanitaria."

[7] www.oas.org/en/iachr/reports/pdfs/Venezuela2018-en.pdf; www.cancilleria.gob.ec/ecuador-rejects-the-precautionary-measures-of-the-inter-american-commission-on-human-rights-iachr/.

[8] www.cepal.org/MDG/noticias/paginas/7/40987/VENEZUELA_es.pdf; www.alainet.org/images/dossier_Venezuela_2013.pdf; https://progresismohumano.wordpress.com/2015/12/07/verdaderas-causas-de-la-perdida-de-la-revolucion-en-venezuela-6d-2015/.

[9] www.alianzapais.com.ec/tag/revolucion-ciudadana/; www.presidencia.gob.ec/wp-content/uploads/downloads/2016/01/REVOLUCION-CIUDADANA.pdf; www.planificacion.gob.ec/wp-content/uploads/downloads/2017/01/10-RC.pdf.

[10] Fernando Casado Gutiérrez, Antonio Salamanca Serrano and Rebeca Sánchez, "La nueva ola de constituciones en Ecuador, Bolivia y Venezuela: una revolución democrática y jurídica en ciernes" *LíneaSur*, vol. 3, No. 11 (January–April 2016).

[11] http://portal.unesco.org/es/ev.php-URL_ID=42262&URL_DO=DO_TOPIC&URL_SECTION=201.html; https://knoema.com/atlas/Venezuela-Bolivarian-Republic-of/topics/Education/Literacy/Adult-literacy-rate.

housing to the homeless and vulnerable, phase out privilege and discrimination, and extend medical care to everyone.

12. It is appropriate for rapporteurs to highlight beneficial initiatives and recognize lessons learned. In the Bolivarian Republic of Venezuela, the *Gran Misión Vivienda* low-cost housing programme has contributed to saving millions of persons from homelessness. Over two million housing units have been delivered to persons who would otherwise live in shanty towns. In order to address hunger, the Local Supply and Production Committees provide needy Venezuelans with 16kg packages containing sugar, flour, dried milk, oil etc., as the Independent Expert was able to verify at the Urbanización Nelson Mandela. Another social acquis, *El Sistema*, established by the late José Antonio Abreu, has offered free musical education to over one million youngsters,[12] contributing to a reduction in juvenile delinquency. Gustavo Dudamel, [13] Music and Artistic Director of the Los Angeles Philharmonic, is a product of *El Sistema*.

13. In Ecuador, the Independent Expert sought to learn about the initiatives to draft a binding legal instrument on the social responsibility of transnational enterprises, [14] establishing a United Nations tax authority to prevent tax evasion and illicit financial flows,[15] efforts toward a financial transactions tax,[16] advances on the draft declaration on the rights of peasants,[17] and the continued struggle against corruption and international money-laundering.[18]

14. He recognizes that the Bolivarian Republic of Venezuela and Ecuador both devote around 70 per cent of their national budgets to social services. A priority for both countries is to promote dialogue among all sectors of the population. The genuine thirst for peace and justice, which the Ecuadorians call *buen vivir*, is reflected in the 2013 Quito Communiqué adopted by the Inter-Parliamentary Union [19] and in the 2014 CELAC declaration proclaiming Latin America and the Caribbean a "zone of peace".

II. Bolivarian Republic of Venezuela

A. Achievements and engagement by other human rights mechanisms

15. In June 2015, the Human Rights Committee examined the fourth periodic report of the Bolivarian Republic of Venezuela. In its concluding observations, it welcomed numerous legislative initiatives, including the adoption of the Indigenous Peoples and

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[12] www.ve.undp.org/content/venezuela/es/home/presscenter/articles/2018/04/10/pnud-venezuela-celebra-la-incorporaci-n-del-integrante-n-1-mill-n-del-sistema-nacional-de-orquestas-y-coros-juveniles-e-infantiles-de-venezuela-el-sistema-0.html;
www.ve.undp.org/content/venezuela/es/home/presscenter/articles/2016/01/25/funcionarios-del-pnud-en-venezuela-visitan-el-cnasplm-n-cleo-de-el-sistema-instituci-n-con-la-que-cooper-hace-m-s-de-12-a-os-ininterrumpidos.html;
www.ve.undp.org/content/venezuela/es/home/presscenter/articles/2016/01/06/desarrollo-sostenible-y-empresas-un-imperativo-a-la-acci-n-paloma-dur-n.html.
On 2 December, the Independent Expert visited *El Sistema*, interviewing students and teachers.
www.flacsoandes.edu.ec/libros/digital/56778.pdf.

[13] Tricia Tunstall, *Changing Lives: Gustavo Dudamel, El Sistema, and the Transformative Power of Music* (New York, W.W. Norton, 2012).

[14] www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Pages/IGWGOnTNC.aspx.

[15] www.theguardian.com/global-development/2016/sep/21/ecuador-foreign-minister-guillaume-long-steps-up-campaign-for-un-tax-body;
www.ipsnews.net/2017/05/ecuador-focuses-on-new-un-tax-body-to-fight-illicit-financial-flows/.

[16] www.world-psi.org/sites/default/files/en_ftt_myth-busting_final.pdf.

[17] www.cetim.ch/a-un-declaration-on-the-rights-of-peasants/;
www.ohchr.org/EN/HRBodies/HRC/RuralAreas/Pages/4thSession.aspx.

[18] www.ecuador.org/blog/?p=3370;
www.guengl.eu:8080/news/article/events/the-panama-papers-one-year-on-fighting-money-laundering-and-tax-dumping.

[19] http://archive.ipu.org/conf-e/128/quito-comm.htm.

Communities Act and the Act on Women's Right to a Life Free from Violence, and the establishment of the Ministry of People's Power for Indigenous Peoples and of the Ministry of People's Power for Women and Gender Equality. The Committee noted with satisfaction that the Constitution provided that human rights treaties were immediately and directly applicable by the courts and other public bodies (see CCPR/C/VEN/CO/4, paras. 3 and 5).

16. The Committee expressed concern at reports of the alleged commission of human rights violations during protests. While taking into account that some protesters might have resorted to violence, the Committee was concerned at numerous reports of cases of excessive and disproportionate use of force, torture and ill-treatment, arbitrary detention and failure to uphold fundamental legal safeguards. While it took note of the investigations that were under way, only seven civil servants had been convicted at that time (ibid., para. 14).

17. Also in June 2015, the Committee on Economic, Social and Cultural Rights examined the third periodic report the Bolivarian Republic of Venezuela. In its concluding observations, it noted with satisfaction the progress made in combating poverty and reducing inequality, and in the fight against malnutrition through the expansion of the school meals programme and the food allowance for low-income families (see E/C.12/VEN/CO/3, para. 5). It noted the delegation's commitment that, despite the economic difficulties caused by, among other reasons, the fall in oil revenues, the State party would continue to make every effort to prevent the situation from affecting social investment and the progressive realization of economic, social and cultural rights (ibid., para. 6).

18. The Committee expressed concern at reports that consultations with indigenous peoples were not held regularly and with full guarantees, particularly when granting concessions for the exploration and development of natural resources. It was also concerned by reports that the legally established procedure for appointing and removing judges was not applied and by the large number of judges appointed to posts on a temporary basis, who, without security of tenure, might find that their independence significantly affected (ibid., paras. 9–10). It was further concerned by reports of acts of violence and intimidation against trade union leaders and members (ibid., para. 20).[20]

19. The universal periodic review of the Bolivarian Republic of Venezuela took place in November 2016. As at June 2017, the Bolivarian Republic of Venezuela had committed to implementing 193 of the 274 recommendations made, and had noted the remaining 81.

20. A problem in assessing the situation is the widening gulf between the Government's and the opposition's narratives, and the media disinformation, simplification and extrapolation. The Independent Expert consulted data from multiple sources, including presentations by non-governmental organizations (NGOs) to the Human Rights Council.[21]

21. Undoubtedly, Venezuelans are suffering from an economic crisis that has generated dysfunctions, scarcity in foods and medicines,[22] delays in distribution, and accompanying violations of human rights.[23] Critics in and outside the country see it as a failed State and blame the crisis on the fiasco of socialism,[24] but few look for other contributing factors. By

[20] Many civil society organizations participated in the examination of the report, including the Red Nacional de Derechos Humanos (https://fundalatin.webnode.es/news/discurso-de-asdrubal-gonzalez-coordinador-de-red-nacional-de-derechos-humanos/).

[21] http://china.embajada.gob.ve/index.php?option=com_content&view=article&id=2426%3Avenezuela-presenta-ante-la-onu-estudios-que-develan-estrategias-de-la-guerra-economica&catid=3%3Anoticias-de-venezuela-en-el-mundo&Itemid=17&lang=es.

[22] "Monitoreo del derecho a la salud en Venezuela: índice de escasez de medicamentos", Boletín Nro. 4, Dic. 2017; https://issuu.com/conviteac/docs/boleti__n__4_convite; http://efectococuyo.com/principales/el-derecho-a-la-salud-y-a-la-alimentacion-entre-los-mas-vulnerados-por-el-gobierno-en-2016; but compare with http://mppre.gob.ve/2017/11/18/en-espana-la-economista-venezolana-pascualina-curcio-denuncia-a-las-trasnacionales-de-alimentos/.

[23] http://unionradio.net/red-nacional-derechos-humanos-resalta-visita-alfred-zayas/.

[24] www.jpands.org/vol22no2/huntoon.pdf; www.crisisgroup.org/latin-america-caribbean/andes/venezuela;

contrast, the Government tends to blame outside causes, notably the drop in oil prices, international smuggling rings, contraband, sanctions, and 19 years of economic warfare, not unlike the non-conventional wars waged against Cuba, Chile and Nicaragua. With political will and international solidarity, solutions can be found, since the Bolivarian Republic of Venezuela is a rich country with the largest oil reserves in the world and major gold, bauxite and coltan deposits,[25] enough to finance the needs of the Venezuelan people, provided that the country is allowed to function free of embargoes and financial blockades.[26]

22. Observers have identified errors committed by the Chávez and Maduro Governments, noting that there are too many ideologues and too few technocrats in public administration, resulting in government policies that lack coherence and professional management and discourage domestic investment, already crippled by inefficiency and corruption,[27] which extend to government officials, transnational corporations and entrepreneurs.[28] Critics warn about the undue influence of the military on government and on the running of enterprises like Petróleos de Venezuela. The lack of regular, publicly available data on nutrition, epidemiology and inflation are said to complicate efforts to provide humanitarian support.[29]

23. Meanwhile, the Attorney General, Tarek Saab, has launched a vigorous anti-corruption campaign,[30] investigating the links between Venezuelan enterprises and tax havens, contracting scams, and deals by public officials with Odebrecht.[31] It is estimated that corruption in the oil industry has cost the Government US$ 4.8 billion.[32] The Attorney General's Office informed the Independent Expert of pending investigations for embezzlement and extortion against 79 officials of Petróleos de Venezuela, including 22 senior managers. The Office also pointed to the arrest of two high-level oil executives,[33]

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www.forbes.com/sites/nathanielparishflannery/2018/03/22/venezuelas-economic-crisis-worsens-in-2018/#41f4cb6f1f17.

[25] www.laht.com/article.asp?ArticleId=345496&CategoryId=10717.

[26] www.legrandsoir.info/la-verite-sur-le-venezuela.html;
www.alainet.org/es/articulo/190685;
www.globalresearch.ca/us-regime-change-in-venezuela-the-truth-is-easy-if-you-follow-the-money-trail-the-opposition-is-pro-washington-not-pro-democracy/5601933;
http://nuso.org/articulo/la-ruina-de-venezuela-no-se-debe-al-socialismo-ni-la-revolucion/.

[27] https://transparencia.org.ve/project/informe-anual-corrupcion/;
www.transparency.org/whatwedo/publication/global_corruption_barometer_people_and_corruption_latin_america_and_the_car;
www.business-anti-corruption.com/country-profiles/venezuela/;
Edgardo Lander, "Venezuela: la experiencia bolivariana en la lucha por trascender al capitalismo", 28 August 2017. Available at www.aporrea.org/ideologia/a251495.html.

[28] www.worldbank.org/en/topic/governance/brief/anti-corruption;
www.theguardian.com/business/2018/apr/22/city-faces-corruption-crackdown-as-imf-investigates-wealthy-countries.

[29] www.derechos.org.ve/informes-anuales.

[30] https://venezuelanalysis.com/News/13470;
www.occrp.org/en/27-ccwatch/cc-watch-briefs/7636-unsealed-indictment-charges-venezuelan-oil-officials-with-corruption;
www.hispantv.com/noticias/venezuela/369245/tramas-corrupcion-pdvsa-perdidas-millonarias;
www.hispantv.com/noticias/venezuela/352168/fiscal-saab-acusa-luisa-ortega-desfalco-petrolera;
https://venezuelanalysis.com/news/11848;
www.telesurtv.net/news/fiscalia-venezuela-detiene-dueno-portal-ilegal-divisas-20180412-0045.html;
https://venezuelanalysis.com/news/13773;
www.telesurtv.net/news/aprehenden-dueno-de-portal-divisas-dolar-pro-venezuela-20180416-0040.html.

[31] www.efe.com/efe/america/portada/saab-vincula-a-fiscales-venezolanos-con-corrupcion-en-el-caso-odebrecht/20000064-3405927.

[32] https://venezuelanalysis.com/News/13577.

[33] www.reuters.com/article/us-venezuela-corruption/venezuela-arrests-ex-oil-refining-boss-for-alleged-graft-sources-idUSKBN1GV2V3;
https://converus.com/venezuelan-economy-losing-billions-corrupt-importers/;
www.wtrf.com/news/us-lawsuit-venezuela-cheated-of-billions-by-rigged-oil-bids/1021936369.

accused of money-laundering in Andorra. The Ministry of Justice estimates corruption losses at some US$ 15 billion.[34] Other stakeholders, in contrast, assert that anti-corruption programmes are selective and have not sufficiently targeted State institutions, including the military.[35]

24. Bearing in mind that the mission had to follow the terms of reference of the mandate, the Independent Expert did not undertake a global inquiry into violations of civil, cultural, economic, political and social rights. Those issues are being dealt with by treaty bodies and deserve investigation by other rapporteurs. The mission necessarily focused on those issues related to the promotion of a democratic and equitable international order, including the need to promote increased regional and international cooperation,[36] survey policies aimed at stopping illicit financial flows and tax havens, ensure freedom of commerce and financial transactions without discrimination, address problems of sovereign debt restructuring,[37] obtain information on policies concerning the distribution of resources and regulation of the private sector,[38] and explore ways of strengthening mutual legal assistance in criminal matters.

25. Private sector actors have pointed to the State acquisition of private property, price controls[39] and worsened working conditions as reducing private sector confidence, and thus contributing to an economic crisis in the country. Private sector unions question strict controls on currency exchange, which they say cause businesses to hesitate to price and sell goods for fear of violating the law. In addition, as raised in an ongoing complaint to ILO, business people and some workers' unions have alleged that they are excluded from dialogue that impacts the labour sector and that they have been subject to persecution by the State, contrary to ILO conventions on freedom of association, tripartite consultation and setting minimum wages.[40] In March 2018, in the absence of progress, the ILO Governing Body decided to appoint a Commission on Inquiry.[41]

26. It has been suggested by entrepreneurs that the Government should exercise more flexibility with monetary policies and provide incentives to the private sector — as has been done in other countries that maintain progressive social models, while easing exchange and loosening price controls — so as to ensure that entrepreneurs are not driven out of business by high replacement costs and a feeling of insecurity, which discourages domestic and international investment.

B. Obstacles to the enjoyment of human rights: economic warfare

27. The Independent Expert inquired from the Government and the opposition about the impact of measures adopted by several States aimed directly and indirectly at affecting the functioning of the Venezuelan economy. He also looked at the problem of currency

[34] www.reuters.com/article/us-venezuela-oil/venezuelas-pdvsa-sues-oil-traders-over-corruption-scheme-lawyer-idUSKCN1GL04U.

[35] www.insightcrime.org/news/analysis/evolution-militarization-venezuela-drug-trade-report/; https://d2071andvip0wj.cloudfront.net/065-containing-the-shock-waves-from-venezuela.pdf.

[36] www.paho.org/ven/index.php?option=com_content&view=article&id=419:mas-de-450-trabajadores-de-salud-venezolanos-han-sido-entrenados-por-la-ops-para-el-manejo-de-casos-de-malaria&Itemid=0.

[37] www.reuters.com/article/us-venezuela-bonds-q-a/implications-of-venezuelas-proposed-foreign-debt-restructuring-idUSKBN1D3250. See the guiding principles on foreign debt and human rights.

[38] www.reuters.com/article/us-venezuela-bonds-q-a/implications-of-venezuelas-proposed-foreign-debt-restructuring-idUSKBN1D3250. See the guiding principles on foreign debt and human rights.

[39] Lauren Leatherby, "Venezuela's economic and political crisis in charts", *Financial Times*, 25 July 2017.

[40] www.ilo.org/gb/GBSessions/GB320/ins/WCMS_237898/lang--en/index.htm.

[41] www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_622567/lang--en/index.htm; www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_619151.pdf; www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_546649.pdf.

speculation, one of the preferred tools to destabilize targeted economies, and the activities of credit rating agencies,[42] which, although they have neither democratic legitimacy nor oversight, have a significant impact on the financial ability of States to issue bonds and obtain financing. The Banco Central de Venezuela informed him that risk rating agencies, primarily Standard & Poor's, Moody's and Fitch, have consistently issued negative ratings based on the country's ability to make external payments, forgetting that the Government has a history of excellent debt response. That has had a significant effect on the country's risk level and has essentially shut down its possibilities of accessing the financial market.

28. Illicit flows, or the illegal transferring of funds from one jurisdiction to another, has had an adverse impact on the ability of States to meet their financial obligations, as has the use of tax havens. International cooperation is necessary to ensure the repatriation of these funds.[43] It also appears that international criminal groups are responsible for the theft of public resources, food items and medicines, which have found their way into neighbouring countries. The United Nations Office on Drugs and Crime (UNODC) can help States tackle some of these problems. There have been cases of hoarding[44] of food, medicines and personal hygiene items, with the items subsequently released onto the black market.[45] In some cases, the hoarding has been so prolonged that hidden food and medicines have perished.[46] Government officials also shared concerns about the widespread sabotage of public property,[47] arson attacks on public buildings, buses, ambulances, hospitals, maternity wards and other institutions, destruction of electricity and telephone lines, paramilitarism[48] in frontier regions[49] and other violent acts tantamount to terrorism.

C. Multilateralism and the principle of non-intervention

29. The Charter of the United Nations rests on the philosophy of multilateralism, a commitment to international cooperation, and the sovereign equality of States. Countries must not be isolated and boycotted, but helped in strengthening their democratic institutions. Over the past sixty years, non-conventional economic wars have been waged against Cuba,[50] Chile,[51] Nicaragua,[52] the Syrian Arab Republic[53] and the Bolivarian

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[42] https://tradingeconomics.com/venezuela/rating.

[43] See Human Rights Council resolution 34/11.

[44] https://venezuelanalysis.com/news/11861.

[45] www.el-nacional.com/noticias/economia/bachaqueros-venden-medicinas-para-tension-tiroides-antibioticos_218920.

[46] www.avn.info.ve/contenido/venezuela-revoluci%C3%B3n-asume-salud-como-derecho-humano-y-social;
www.japantimes.co.jp/news/2017/11/26/world/science-health-world/venezuela-government-distributes-medicine-amid-shortages-nearly-drugs/#.Wsu7pi5ublU;
www.youtube.com/watch?v=PcnwUuCsHX8&feature=youtu.be.

[47] www.youtube.com/watch?v=v9AcrvknLEU.

[48] http://misionverdad.com/la-guerra-en-venezuela/en-10-claves-paramilitarismo-y-violencia-en-venezuela%20;
www.derechos.org.ve/paramilitares/funcion-del-paramilitarismo-en-el-contexto-venezolano;
http://elvenezolanonews.com/grupos-paramilitares-intentan-dominar-frontera-entre-venezuela-y-colombia/.

[49] www.venezuelasolidarity.co.uk/venezuela-closes-colombia-border-amid-paramilitary-violence/.

[50] www.amnestyusa.org/pdfs/amr250072009eng.pdf;
www.cetim.ch/the-effects-of-the-us-embargo-against-cuba-and-the-reasons-of-the-urgent-need-to-lift-it/;
www.cubavsbloqueo.cu/sites/default/files/InformeBloqueo2017/informe_de_cuba_sobre_bloqueo_2017_ingles.pdf;
www.sela.org/media/264635/t023600006305-0-cuba_ing.pdf.

[51] United States of America, *Covert Action in Chile, 1963–1973: staff report of the Select Committee to Study Governmental Operations with Respect to Intelligence Activities* (94th Congress, Washington, 1975);
National Security Council, "Options Paper on Chile" (NSSM 97), 3 No. 1970;
"National Security Decision Memorandum 93, Policy Toward Chile", 9 November 1970;
"Report on CIA Chilean Task Force Activities, 15 September to 3 November 1970".

Republic of Venezuela in order to make their economies fail, facilitate regime change and impose a neo-liberal socioeconomic model. In order to discredit selected governments, failures in the field of human rights are maximized so as to make violent overthrow more palatable. Human rights are being "weaponized" against rivals. Yet, human rights are the heritage of every human being and should never be instrumentalized as weapons of demonization. Instead, measures of inclusion are necessary, as is reliance on the expertise of international organizations such as the United Nations Development Programme (UNDP),[54] the United Nations Children's Fund (UNICEF),[55] FAO,[56] WHO,[57] the Joint United Nations Programme on HIV/AIDS (UNAIDS),[58] the Office of the United Nations High Commissioner for Refugees (UNHCR),[59] UNODC,[60] ILO,[61] the United Nations Educational, Scientific and Cultural Organization (UNESCO)[62] and the Pan American Health Organization,[63] among others, to provide effective advisory services and technical assistance.

30. The principles of non-intervention[64] and non-interference[65] in the internal affairs of sovereign States belong to customary international law and have been reaffirmed in General Assembly resolutions, notably 2625 (XXV) and 3314 (XXIX), and in the 1993 Vienna Declaration and Programme of Action. Article 32 of the Charter of Economic Rights and Duties of States, adopted by the General Assembly in 1974, stipulates that no State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights.

31. In its judgment of 27 June 1986 concerning *Nicaragua v. United States*, the International Court of Justice quoted from resolution 2625 (XXV): "no State shall organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed towards the violent overthrow of the regime of another State, or interfere in civil strife in another State". In the context of the inter-American system, the Court cited the Convention on the Duties and Rights of States in the Event of Civil Strife, which was confirmed by resolution 78 adopted by the General Assembly of the Organization of American States on 21 April 1972, in which it resolves "To reiterate solemnly the need for the member states of

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[52] www.washingtonpost.com/archive/opinions/1989/08/27/uncle-sams-money-war-against-the-sandinistas/f78e064a-1ca1-4e07-90d2-bebdeff1717d/?utm_term=.9dd20f649246.

[53] https://theintercept.com/2016/09/28/u-s-sanctions-are-punishing-ordinary-syrians-and-crippling-aid-work-u-n-report-reveals/.

[54] www.ve.undp.org/.

[55] www.unicef.org/venezuela/spanish/unicef_venezuela_7741.htm.

[56] www.fao.org/venezuela/programas-y-proyectos/en/.

[57] www.paho.org/ven/index.php?option=com_content&view=article&id=416:rusia-entrego-a-venezuela-8-5-toneladas-de-medicamentos-con-el-apoyo-de-ops-oms&Itemid=0; www.paho.org/ven/index.php?option=com_content&view=article&id=418:venezuela-lanza-campana-de-vacunacion-para-interrumpir-la-circulacion-del-virus-del-sarampion&Itemid=0.

[58] www.unaids.org/en/regionscountries/countries/venezuela.

[59] www.unhcr.org/venezuela.html.

[60] www.unodc.org/; www.unodc.org/unodc/treaties/CAC/country-profile/CountryProfile.html?code=VEN.

[61] www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11110:0::NO::P11110_COUNTRY_ID:102880; www.ilo.org/gb/GBSessions/GB320/ins/WCMS_237898/lang--en/index.htm.

[62] www.iesalc.unesco.org.ve/index.php?option=com_content&view=article&id=1202:venezuela-ingresa-al-consejo-ejecutivo-de-la-unesco&catid=11&Itemid=466&lang=es; https://en.unesco.org/countries/venezuela-bolivarian-republic?language=fr.

[63] www.paho.org/ven/index.php?option=com_content&view=article&id=418:venezuela-lanza-campana-de-vacunacion-para-interrumpir-la-circulacion-del-virus-del-sarampion&Itemid=0. Between 2017 and 2018, thanks to the Pan American Health Organization revolving fund, nearly 7 million measles/mumps/rubella vaccines and more than 9 million vaccines against diphtheria and tetanus were distributed, as well as the syringes needed for vaccination.

[64] Marcelo Kohen, "The principle of non-intervention 25 years after the *Nicaragua* judgment", *Leiden Journal of International Law*, vol. 25 (2012).

[65] Naigen Zhang, "The principle of non-interference and its application in practices of contemporary international law, *Fudan Journal of the Humanities and Social Sciences*, vol. 9, No. 3 (September 2016).

the Organization to observe strictly the principles of non-intervention and self-determination of peoples as a means of ensuring peaceful coexistence among them" and "To reaffirm the obligation of those states to refrain from applying economic, political, or any other type of measures to coerce another state and obtain from it advantages of any kind". Similarly, chapter 4, article 19, of the Charter of the OAS stipulates that "No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. The foregoing principle prohibits not only armed force but also any other form of interference or attempted threat against the personality of the State or against its political, economic, and cultural elements".

32. While he was in the Bolivarian Republic of Venezuela, the Independent Expert had long conversations and email exchanges with Pasqualina Curcio, who published a well-documented book entitled *The visible hand of the market*, analysing the economic war. She reminds readers that in 1970, when Salvador Allende was democratically elected President of Chile, Richard Nixon told Henry Kissinger that the United States would not tolerate an alternative economic model in Latin America and gave orders to "make the Chilean economy scream",[66] and when all the boycotts and sanctions failed, Allende was removed by Pinochet's coup in September 1973.[67] The Spanish economist Alfredo Serrano, head of the Centro Estratégico Latinoamericano de Geopolítica, analyses the manipulation of the "country risk factor",[68] the refusal of banks to process Venezuelan international transactions, the obstacles to obtaining insulin and other medicines,[69] the artificially induced inflation, and the arbitrary "dollar today" figures.[70] Furthermore, staff of the Banco Central de Venezuela explained to the Independent Expert that the pernicious exchange rate published on a website that was not grounded in factual purchase and sale transactions had been negatively impacting the economy, primarily, as a price marker, raising inflations levels, constituting an instrument of war that had risen constantly, accumulating during the year an upward variation trend over 2,465 per cent.

33. According to Pasqualina Curcio, the manipulation of the exchange rate has been the most effective strategy to disrupt the Venezuelan economy. It has an impact not only on the foreign exchange market, but also price levels of the economy, leading to the loss of purchasing power, distortion of markets and production. She explains that:

> The variations of the parallel exchange rate published in websites since 2012 do not correspond to the historical behaviour of the ratio between international reserves and monetary liquidity. This leads us to uphold our theory that the levels of this type of parallel exchange rate do not respond to economic factors but rather to political ones in the framework of this manipulation of the economic warfare against the people in Venezuela ... The unconventional nonviolent warfare method that has been evidently used since 2012 to distort the Venezuelan economy and to provoke social unrest and political destabilization is known in economic terms as supply shock, generated by the inflation costs. The tool used is the manipulation of the exchange rate in the parallel black market.[71]

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[66] https://nsarchive2.gwu.edu//NSAEBB/NSAEBB8/nsaebb8i.htm.

[67] Peter Kornbluh, *The Pinochet File: A Declassified Dossier on Atrocity and Accountability* (New York, The New Press, 2003);
Gonzalo Martner, *Chile: Los mil días de una economía sitiada* (Caracas, Universidad Central de Venezuela, 1975);
www.usnews.com/opinion/world-report/articles/2018-03-03/new-evidence-the-trump-administration-is-meddling-in-venezuelas-elections.

[68] www.coface.com/Economic-Studies-and-Country-Risks/Venezuela.

[69] www.celag.org/las-pruebas-del-crimen-economico-venezuela/amp/;
https://venezuelanalysis.com/analysis/13529.

[70] https://dolartoday.com/.

[71] Pasqualina Curcio Curcio, *The visible hand of the market: economic warfare in Venezuela* (2017), pp. 54 and 74.
https://lalenguatv.com.ve/wp-content/uploads/2017/03/ManoVisibleMercado.pdf.

D. Economic sanctions

34. While arms sales embargoes may be justifiable against some countries, especially to facilitate dialogue and peacemaking, economic sanctions that hurt innocent populations contravene the spirit and letter of the Charter of the United Nations. Over decades, United Nations bodies have condemned unilateral coercive measures,[72] notably in the landmark 2000 study of the Sub-Commission on the Promotion and Protection of Human Rights,[73] documenting the adverse human rights impact of those measures. Multilateral sanctions, even those imposed by the Security Council under Chapter VII of the Charter, can also cause suffering and death. In the 1990s, two United Nations Assistant Secretary-Generals, Denis Halliday and Hans-Christof von Sponeck,[74] quit their Humanitarian Coordinator functions in Iraq to protest against sanctions, which had caused more than a million deaths among Iraqis, particularly children,[75] and which they qualified as a form of genocide.[76]

35. On 23 March 2018, the Human Rights Council condemned unilateral coercive measures by a vote of 28 in favour, 15 against and 3 abstentions,[77] because economic sanctions demonstrably cause death, aggravate economic crises, disrupt the production and distribution of food and medicine, constitute a push factor generating emigration,[78] and lead to violations of human rights. The refusal of Colombia to deliver anti-malaria medicine that had been ordered to combat an outbreak in November 2017,[79] as well as the absence of condemnation from the international community, entails joint responsibility for the aggravation of the crisis. In that case, the anti-malaria medicine had to be imported from India.

36. The effects of sanctions imposed by Presidents Obama and Trump[80] and unilateral measures by Canada and the European Union have directly and indirectly aggravated the shortages in medicines such as insulin and anti-retroviral drugs. To the extent that economic sanctions have caused delays in distribution and thus contributed to many deaths, sanctions contravene the human rights obligations of the countries imposing them.

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[72] www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22072&LangID=E. The Movement of Non-Aligned Countries has also repeatedly condemned sanctions. See https://venezuelanalysis.com/analysis/12896.

[73] www.ohchr.org/Documents/Events/WCM/MarcBossuyt_WorkshopUnilateralCoerciveSeminar.pdf; Sub-Commission on Human Rights resolution 2000/25.

[74] Hans-C. von Sponeck, *A Different Kind of War: The UN Sanctions Regime in Iraq* (Berghahn Books, Oxford, 2006).

[75] www.unicef.org/newsline/99pr29.htm.

[76] http://news.cornell.edu/stories/1999/09/former-un-official-says-sanctions-against-iraq-amount-genocide. In a 1996 interview, when asked about reports that half a million children had died in Iraq owing to the sanctions, the United States Secretary of State, Madeleine Albright, replied "we think the price is worth it". See https://fair.org/extra/we-think-the-price-is-worth-it/.

[77] It is regrettable that resolution 37/21 was not adopted unanimously, bearing in mind that economic sanctions are a toxic medicine worse than the disease.

[78] www.telesurtv.net/news/colombianos-venezuela-desplazados-conflicto-interno-20180621-0043.html; www.euronews.com/2018/03/26/colombia-s-venezuelan-migrant-influx; www.washingtonpost.com/news/world/wp/2018/03/02/feature/i-cant-go-back-venezuelans-are-fleeing-their-crisis-torn-country-en-masse/?noredirect=on&utm_term=.b1b0262fd262.

[79] www.colombiainforma.info/santos-bloquea-venta-de-medicamentos-a-venezuela/; https://venezuelanalysis.com/news/13782; http://m.avn.info.ve/contenido/venezuela-denuncia-que-euroclear-mantiene-secuestro-recursos-destinados-medicinas-y-alimen.

[80] https://obamawhitehouse.archives.gov/the-press-office/2015/03/09/fact-sheet-venezuela-executive-order; http://money.cnn.com/2015/03/09/news/economy/united-states-sanctions-venezuela/index.html; https://venezuelanalysis.com/news/12885; http://uk.businessinsider.com/trump-venezuela-top-priorities-iran-north-korea-2017-12?r=US&IR=T; http://foreignpolicy.com/2018/01/12/why-more-sanctions-wont-help-venezuela/; https://therealnews.com/stories/un-rapporteur-us-sanctions-cause-death-in-venezuela; www.treasury.gov/resource-center/sanctions/Programs/Documents/13692.pdf.

Moreover, sanctions can amount to crimes against humanity[81] under Article 7 of the Rome Statute of the International Criminal Court. An investigation by that Court would be appropriate, but the geopolitical submissiveness of the Court may prevent this.

37. Modern-day economic sanctions and blockades are comparable with medieval sieges of towns with the intention of forcing them to surrender. Twenty-first century sanctions attempt to bring not just a town, but sovereign countries to their knees. A difference, perhaps, is that twenty-first century sanctions are accompanied by the manipulation of public opinion through "fake news", aggressive public relations and a pseudo-human rights rhetoric so as to give the impression that a human rights "end" justifies the criminal means. There is not only a horizontal juridical world order governed by the Charter of the United Nations and principles of sovereign equality, but also a vertical world order reflecting the hierarchy of a geopolitical system that links dominant States with the rest of the world according to military and economic power. It is the latter, geopolitical system that generates geopolitical crimes, hitherto in total impunity. It is reported that the United States is currently training foreign lawyers in how to draft legislation to impose further sanctions on the Bolivarian Republic of Venezuela in an effort to asphyxiate Venezuelan State institutions.[82]

38. The Banco Central de Venezuela informed the Independent Expert that the sanctions, besides hindering access to external financing and international payments, had affected the normal performance of the national productive apparatus, resulting in a reduction in the supply of local goods and services. For the previous year and a half, the bank had been experiencing difficulties with the correspondent investment of high-level banks; from a total of 33 correspondent accounts, it currently had 14, which operated under a discretional compliance system, with many limitations that resulted in certain operational restrictions, mostly focused on public debt payments. The problems had worsened relating to the operation of correspondent banks, mainly Citibank, Commerzbank and Deutsche Bank, which currently handled only public debt payment. The situation was resulting in obstacles to the realization of public sector payments (i.e. foods and medicines). Demonstrably, unilateral coercive measures and financial blockades have aggravated the economic crisis and caused unemployment and emigration to Colombia, Brazil and Ecuador, among other countries (see annex VI).[83]

39. Economic asphyxiation policies are comparable to those already practised in Chile, the Democratic People's Republic of Korea, Nicaragua and the Syrian Arab Republic. In January 2018, Middle East correspondent of The Financial Times and The Independent, Patrick Cockburn, wrote on the sanctions affecting Syria:

> There is usually a pretence that foodstuffs and medical equipment are being allowed through freely and no mention is made of the financial and other regulatory obstacles making it impossible to deliver them. An example of this is the draconian sanctions imposed on Syria by the US and EU which were meant to target President Bashar al-Assad and help remove him from power. They have wholly failed to do this, but a UN internal report leaked in 2016 shows all too convincingly the effect of the embargo in stopping the delivery of aid by international aid agencies.[84] They cannot import the aid despite waivers because banks and commercial companies dare not risk being penalised for having anything to do with Syria. The report quotes a European doctor working in Syria as saying that "the indirect effect of sanctions

[81] https://libya360.wordpress.com/2018/04/11/trumps-crimes-against-venezuela-must-be-brought-before-the-international-criminal-court/.

[82] www.mcclatchydc.com/news/politics-government/white house/article207971169.html.

[83] https://foreignpolicy.com/2018/01/12/por-que-mas-sanciones-no-ayudaran-a-venezuela/; https://venezuelanalysis.com/analysis/13332.

[84] https://assets.documentcloud.org/documents/3115191/Hum-Impact-of-Syria-Related-Res-Eco-Measures-26.pdf; www.independent.co.uk/voices/syria-syrian-war-us-eu-sanctions-bashar-al-assad-patrick-cockburn-a7350751.html.

... makes the import of the medical instruments and other medical supplies immensely difficult, near impossible".[85]

In short: economic sanctions kill.

E. International mediation process

40. There is nothing more in keeping with the letter and spirit of the Charter of the United Nations than mediation. For two years, the former Spanish Prime Minister, José Luis Rodríguez Zapatero (annex IV), with the support of the Vatican,[86] headed a negotiating team in the Dominican Republic which facilitated talks between the Government of the Bolivarian Republic of Venezuela and the opposition. Negotiations advanced to a balanced document entitled "Agreement of Democratic Coexistence" (annex III) that should have been signed by all sides on 7 February 2018. The Government signed, but, as was reported, a telephone call from Colombia frustrated the two-year negotiating process with the instruction: "Don't sign".[87] Some believe that certain countries do not want to see a peaceful solution of the Venezuelan conflict and prefer to prolong the suffering of the Venezuelan people, expecting that the situation will reach the "humanitarian crisis" threshold and trigger a military intervention.

41. Bearing in mind that Venezuelan society is polarized, what is most needed is dialogue between the Government and the opposition,[88] and it would be a noble task on the part of the Secretary-General of the United Nations to offer his good offices for such a dialogue. Yet, opposition leaders Antonio Ledezma[89] and Julio Borges,[90] during a trip through Europe to denounce the Government of the Bolivarian Republic of Venezuela, called for further sanctions[91] as well as a military "humanitarian intervention".[92] This attitude generates a palpable malaise in the Government, which remembers the coup of 11–12 April 2002, known as the *Carmonazo*, which caused dozens of deaths, but ultimately failed.[93] Some current opposition members still endorse the coup that installed as President the head of Fedecameras, Pedro Carmona, and the Carmona decree dissolving all elected bodies, including the National Assembly, governorships and municipal authorities, shutting

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[85] www.independent.co.uk/voices/economic-sanctions-north-korea-syria-hospital-supplies-a8168321.html.

[86] www.aporrea.org/actualidad/a258744.html; www.diariolasamericas.com/america-latina/zapatero-denuncia-doble-rasero-venezuela-y-resalta-el-dialogo-crisis-n4149344.

[87] On 16 February 2018, the Permanent Mission of the Bolivarian Republic of Venezuela issued a statement to all Permanent Missions to the United Nations Office and other international organizations in Geneva, explaining what had happened. www.el-nacional.com/noticias/mundo/rodriguez-zapatero-pidio-oposicion-suscribir-acuerdo-dialogo_222314; www.infobae.com/america/venezuela/2018/02/24/julio-borges-afirmo-que-jose-luis-rodriguez-zapatero-se-quemo-como-mediador-en-el-dialogo-entre-el-regimen-de-nicolas-maduro-y-la-oposicion-venezolana/; www.elplural.com/politica/2018/02/14/mas-de-200-personalidades-reaccionan-ante-el-virulento-ataque-de-el-pais-contra.

[88] https://edition.cnn.com/videos/spanish/2017/12/02/cnnee-brk-sot-julio-borges-republica-dominicana-dialogo-venezuela-oposicion-elecciones-voto.cnn.

[89] "« Maduro est acculé, mais cela le rend encore plus dangereux »; Ancien maire de Caracas, l'opposant Antonio Ledezma a fui le Venezuela il y a trois mois. Rencontre à Genève", *Tribune de Genève*, 21 February 2018 (« oui, j'appelle à une intervention humanitaire ... c'est à la communauté internationale de préciser la forme »).

[90] www.el-nacional.com/noticias/oposicion/borges-venezuela-convertido-problema-para-region_225386.

[91] http://contrapunto.com/noticia/desde-madrid-borges-vecchio-y-ledezma-piden-mas-sanciones-y-aumentar-presion-al-gobierno-194508/.

[92] www.lefigaro.fr/international/2018/02/23/01003-20180223ARTFIG00339-antonio-ledezma-il-faut-une-intervention-pour-renverser-maduro.php.

[93] http://news.bbc.co.uk/hi/spanish/latin_america/newsid_3718000/3718810.stm; http://elestimulo.com/blog/pedro-carmona-a-15-anos-del-carmonazo-ni-arrepentido-ni-con-miedo/.

down the government television channel as well as community radio stations.[94] Today, millions of Venezuelans worry that foreign interests may again finance a coup to impose a neo-liberal government that would abolish public services and destroy the social acquis. This could engender civil war, since a significant percentage of the population still identifies with the ideals of *Chavismo*.[95] In an interview with The New York Times, opposition leader Leopoldo López expressed views endorsing interventionism: "In 1958, there was a military coup that began the transition to democracy … And in other Latin American countries, there have been coups that called elections. So I don't want to rule anything out, because the electoral window has been closed. We need to go forward on many different levels. One is street demonstrations; a second is coordination with the international community."[96] Those who shout "humanitarian crisis" should inquire whether the economic war and the sanctions are not a major cause. The principle of estoppel prevents those contributing to the crisis from invoking it to demand intervention (*ex injuria non oritur jus*).

F. Humanitarian crisis and humanitarian intervention

42. A disquieting media campaign seeks to force observers into a preconceived view that there is a "humanitarian crisis" in the Bolivarian Republic of Venezuela. An independent expert must be wary of hyperbole, bearing in mind that "humanitarian crisis" is a *terminus technicus* that can be misused as a pretext for military intervention.[97]

43. Instead, international solidarity with the Venezuelan people should facilitate the free flow of food and medicines in order to alleviate the current scarcity. Help should be genuinely humanitarian and not pursue ulterior political purposes. The International Committee of the Red Cross (ICRC), Caritas Internationalis and other organizations could assist in coordinating the importation and distribution of aid; the Bill and Melinda Gates Foundation could help wipe out malaria in the Bolivarian Republic of Venezuela.[98] Thanks to UNDP, the Independent Expert was able to convene a meeting with all the United Nations agencies and other regional organizations in the Bolivarian Republic of Venezuela with a view to coordinating assistance, an initiative that bore fruit shortly thereafter.[99]

44. Although the situation in the Bolivarian Republic of Venezuela has not yet reached the humanitarian crisis threshold, there is hunger, malnutrition, anxiety, anguish and

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[94] Miguel Tinker Salas, *Venezuela: What Everyone Needs to Know* (Oxford, Oxford University Press, 2015), pp. 157–58.

[95] Ibid., pp. 154 ff. See also Lander, "Venezuela"; https://luisbrittogarcia.blogspot.ch/2018/04/en-una-guerra-si-te-atacan-tienes-que.html.

[96] www.nytimes.com/2018/03/01/magazine/can-venezuela-be-saved.html.

[97] Stephen Kinzer, *Overthrow: America's century of regime change from Hawaii to Iraq* (New York, Times Books, 2006); Norman Solomon, *War made easy: how presidents and pundits keep spinning us to death* (John Wiley & Sons, Hoboken, New Jersey, 2005); www.un.org/ga/president/63/interactive/protect/noam.pdf; https://consortiumnews.com/2018/02/14/regime-change-fails-is-a-military-coup-or-invasion-of-venezuela-next/.
In its judgment of 27 June 1986 in the *Nicaragua v. United States* case, the International Court of Justice noted that "while the United States might form its own appraisal of the situation as to respect for human rights in Nicaragua, the use of force could not be the appropriate method to monitor or ensure such respect". The Court held that "the United States of America, by training, arming, equipping, financing and supplying the contra forces or otherwise encouraging, supporting and aiding military and paramilitary activities in and against Nicaragua, has acted, against the Republic of Nicaragua, in breach of its obligation under customary international law not to intervene in the affairs of another State"; www.aporrea.org/ddhh/a260597.html.

[98] www.who.int/malaria/news/2018/interview-bill-gates/en/.

[99] www.ve.undp.org/content/venezuela/es/home/presscenter/articles/2016/12/08/gobierno-de-la-rep-blica-bolivariana-de-venezuela-y-naciones-unidas-fortalecen-cooperaci-n-en-materia-de-prioridades-nacionales.html;
http://mppre.gob.ve/?p=22182;
http://mppre.gob.ve/2018/06/13/gobierno-revolucionario-establece-acuerdos-con-la-organizacion-panamericana-de-la-salud/.

emigration.[100] What is crucial is to study the causes of the crisis, including neglected factors of sanctions, sabotage, hoarding, black market activities, induced inflation [101] and contraband[102] in food and medicines.

45. The "crisis" in the Bolivarian Republic of Venezuela is an economic crisis, which cannot be compared with the humanitarian crises in Gaza,[103] Yemen,[104] Libya, [105] the Syrian Arab Republic,[106] Iraq,[107] Haiti,[108] Mali,[109] the Central African Republic,[110] South Sudan,[111] Somalia,[112] or Myanmar,[113] among others. It is significant that when, in 2017, the Bolivarian Republic of Venezuela requested medical aid from the Global Fund to Fight AIDS, Tuberculosis and Malaria, the plea was rejected, because it "is still a high-income country … and as such is not eligible".[114] During his mission, the Independent Expert discussed the issues of food and medicine scarcity with experts from FAO[115] and obtained pertinent data from the Economic Commission for Latin America and the Caribbean.[116] The December 2017 FAO report and the March 2018 report list food crises in 37 countries. The Bolivarian Republic of Venezuela is not among them.[117]

46. It is pertinent to recall the situation in the years prior to the election of Hugo Chávez, [118] when the International Monetary Fund (IMF) imposed on Venezuela the "Washington consensus" of restructuring programmes, austerity and privatization (see A/72/1787), which led to mass public demonstrations and a military crackdown, the *Caracazo* of 1989, leaving some 3,000 dead.[119] Corruption was ubiquitous and in 1993, President Carlos Pérez was removed because of embezzlement.[120] The Chávez election in

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100 www.unhcr.org/news/briefing/2018/3/5aa793c14/venezuelans-flee-throughout-latin-america-unhcr-issues-new-protection-guidance.html.

101 To solve the hyperinflation problem, the United States economist Steve Hanke proposes dollarization. See www.panorama.com.ve/politicayeconomia/Dolarizar-al-pais-acabaria-con-la-inflacion-Economista-Steve-Hanke-a-PANORAMA-audio-20161219-0002.html. See also www.boeckler.de/pdf/v_2017_11_10_kulesza.pdf; www.alainet.org/es/articulo/188447; www.resumenlatinoamericano.org/2018/04/16/venezuela-sobre-las-dolarizaciones-por-pasqualina-curcio/.

102 https://venezuelanalysis.com/news/11468. According to information received from the Supreme Court, in the period 2015–2017, a total of 10,713 cases of contraband, hoarding and speculation were dealt with by the courts, and in 2017 the Court processed 79 extradition requests, mostly concerning Colombia, Spain and the United States.

103 Norman Finkelstein, *Gaza: an inquest into its martyrdom* (Oakland, California, University of California Press, 2017).

104 www.c-span.org/video/?c4670011/murphy-young-yemen-murphy-saudis-deliberately-create-famine-yemen.

105 https://reliefweb.int/report/libya/unicef-libya-humanitarian-situation-report-july-september-2017.

106 www.icrc.org/en/where-we-work/middle-east/syria.

107 https://reliefweb.int/report/iraq/mosul-humanitarian-crisis-01-june-2017-enarku.

108 https://reliefweb.int/report/haiti/haiti-humanitarian-situation-report-april-2017.

109 https://reliefweb.int/report/mali/unicef-mali-humanitarian-situation-report-april-june-2017.

110 www.unhcr.org/news/press/2018/1/5a659f6ca/global-report-10-under-reported-humanitarian-crises-2017.html.

111 www.unocha.org/story/south-sudan-humanitarian-crisis-catastrophic-proportions.

112 www.care.org/emergencies/somalia-humanitarian-crisis.

113 www.aljazeera.com/news/2018/02/rohingya-allowed-return-myanmar-180213195617187.html.

114 https://plataformalac.org/en/2017/02/global-fund-denies-humanitarian-support-to-hiv-people-of-venezuela/.

115 www.fao.org/3/a-br323e.pdf.

116 https://venezuelanalysis.com/news/12754.

117 www.fao.org/giews/country-analysis/external-assistance/en/.

118 https://revista.drclas.harvard.edu/book/venezuela-1980s-1990s-and-beyond.

119 In 1998, the Inter-American Commission on Human Rights condemned the *Caracazo* and other actions of the Pérez Government, referring the case to the Inter-American Court of Human Rights, which in 1999 found violations of the American Convention on Human Rights.

120 Naoko Kada, "Impeachment as a punishment for corruption? The cases of Brazil and Venezuela" in *Checking executive power: presidential impeachment in comparative perspective*, Jody C. Baumgartner and Naoko Kada, eds. (Westport, Praeger, 2003); www.nytimes.com/1993/05/21/world/venezuelan-leader-quits-to-face-trial.html.

1998 reflected despair with the corruption and neo-liberal policies of the 1980s and 1990s, and rejection of the gulf between the super-rich and the abject poor.[121]

G. International monitoring of elections in the Bolivarian Republic of Venezuela

47. Participatory democracy in the Bolivarian Republic of Venezuela, called "protagónica", is anchored in the Constitution of 1999 and relies on frequent elections and referendums.[122] During the mission, the Independent Expert exchanged views with the Electoral Commission[123] and learned that in the 19 years since Chávez, 25 elections and referendums had been conducted, 4 of them observed by the Carter Center. The Independent Expert met with the representative of the Carter Center in the Bolivarian Republic of Venezuela, who recalled Carter's positive assessment of the electoral system.[124] They also discussed the constitutional objections raised by the opposition to the referendum held on 30 July 2017, resulting in the creation of a Constitutional Assembly.[125] Over 8 million Venezuelans voted in the referendum, which was accompanied by international observers,[126] including from the Council of Electoral Specialists of Latin America.[127]

H. Ad hominem attacks

48. An atmosphere of intimidation accompanied the mission, attempting to pressure the Independent Expert into a predetermined matrix. He received letters from NGOs asking him not to proceed because he was not the "relevant" rapporteur, and almost dictating what should be in the report. Weeks before his arrival, some called the mission a "fake investigation". Social media insults bordered on "hate speech" and "incitement". Mobbing before, during and after the mission bore a resemblance to the experience of two American journalists who visited the country in July 2017.[128] Utilizing platforms such as Facebook and Twitter, critics questioned the Independent Expert's integrity and accused him of bias, demonstrating a culture of intransigence and refusal to accept the duty of an independent expert to be neutral, objective, dispassionate and to apply his expertise free of external pressures. The idea that an independent expert should think independently and weigh evidence does not seem to have occurred to some critics, for whom human rights are weapons of demonization, not only against governments, but also against experts.[129] The

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121 www.imf.org/external/pubs/ft/silent/index.htm; Lander, "Venezuela".

122 www.oas.org/juridico/mla/sp/ven/sp_ven-int-const.html. Similarly, the constitution of Ecuador includes the notion of participatory, not merely representative, democracy.

123 www.medelu.org/Ils-confondent-votes-et-arme-de.

124 www.youtube.com/watch?v=rI4z_N2L3nI&feature=youtu.be.

125 www.legrandsoir.info/venezuela-un-vote-contre-la-violence.html.

126 https://venezuelanalysis.com/news/13442.

127 https://theglobalamericans.org/2017/10/council-electoral-specialists-latin-america-ceela/; https://venezuelanalysis.com/news/13783.

128 In the podcast "Unauthorized Disclosure", hosted by Rania Khalek and Kevin Gosztola, journalists Abby Martin and Michael Prysner reported how they were threatened with physical violence and endured a campaign of demonization as "intelligence agents", collecting protester photos for Venezuelan police. They described the violent demonstrations they witnessed as follows: "violent confrontations are happening … the *Guarimbas*, which are these huge flaming barricades that are … going on every single day and night across different areas, usually in middle and upper-class areas … The opposition does not denounce the violence". Opposition activists "pulled out people from 18-wheelers, stole trucks on the highway, created giant barricades, doused the freeways in gasoline … When you look at the death toll … well over half were killed directly or indirectly by opposition violence". https://raniakhalek.com/; www.youtube.com/watch?v=ig6yFP8HjVQ; www.youtube.com/watch?v=YUYWrPiUeWY.

129 Many experts have endured mobbing, including John Dugard, Jean Ziegler, Idriss Jazairy, Richard Falk, Olivier de Schutter, William Schabas and Michael Lynk. Even Virginia Dandan, long-time Chair of the Committee on Economic, Social and Cultural Rights and Independent Expert on human rights and international solidarity, was ridiculed by an NGO because of her press release on her mission to Cuba (A/HRC/38/40/Add.1).

Independent Expert explained to critics that he must evaluate independently, not only from governments, but from lobbies, non-governmental organizations and even from other rapporteurs.

III. Ecuador

49. In its 2016 concluding observations on the sixth periodic report of Ecuador, the Human Rights Committee welcomed the adoption of the Comprehensive Organic Criminal Code, the Organic Act on National Equality Councils, the Act for the Reparation of Victims and the Prosecution of Grave Human Rights Violations and Crimes against Humanity, the National Plan for Good Living 2013–2017, the Organic Act on Disabilities, the Organic Act on Intercultural Education, the Comprehensive National Plan for the eradication of sexual offences in the education system, and the Plurinational Plan for the Elimination of Racial Discrimination and Ethnic and Cultural Exclusion (CCPR/C/ECU/CO/6, para. 3). At the same time, the Committee expressed concern over allegations that judges had been threatened with judicial proceedings in connection with the exercise of their duties, that such proceedings had actually been opened and that the judicial system was used to impose harsh sentences on government critics and members of the opposition in a manner that put its impartiality in doubt (ibid., paras. 25). The Committee also expressed concern over reports that some oil concessions had been granted in indigenous territories without prior consultation with the communities affected (ibid., para. 35).

50. In its 2012 concluding observations on the third periodic report of Ecuador, the Committee on Economic, Social and Cultural Rights welcomed the ratification by Ecuador of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and commended it upon being the first State to do so. It noted the State party's ratification of the Convention on the Rights of Persons with Disabilities and its Optional Protocol, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention for the Protection of All Persons from Enforced Disappearance. The Committee welcomed improvements in the State party's social indicators for human development and poverty reduction, as well as the increases made in budgetary allocations for economic and social expenditure. The Committee highlighted the passage of the 2008 Constitution of Ecuador, which established the direct applicability of the human rights set forth in the Constitution and in international human rights instruments, the principle of non-discrimination in the exercise of human rights and the enforceability of human rights by judicial mechanisms such as constitutional protection actions. The Committee noted the advances made in the development of a legislative framework designed to ensure the enjoyment of the rights set forth in the Covenant, including the Food Sovereignty Act, the Higher Education Act and the Disabilities Act (E/C.12/ECU/CO/3, paras. 3–7).

51. At the same time, the Committee expressed concern about the environmental impacts of mining and agribusiness projects, particularly their effects on people's ability to exercise the right to water, and urged the State party to establish environmental protection measures. The Committee also expressed concern about corporate land purchases and their impact on landownership by campesinos, and about living conditions in high-risk zones. The Committee recommended that the State party develop land titling plans in order to safeguard campesinos' ownership of their land and establish mechanisms for preventing forced sales (ibid., paras. 25–26).

52. During the third cycle of the universal periodic review, the Human Rights Council examined the national report of Ecuador (A/HRC/WG.6/27/ECU/1) on 1 May 2017. The report of the Working Group of the Universal Periodic Review (A/HRC/36/4) reflects the recognition of many States of the achievements of Ecuador, especially in the field of economic, social and cultural rights. Of the 182 recommendations that were made, Ecuador accepted 162 and noted the remaining 20.

www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21893&LangID=E; www.unwatch.org/cubas-propaganda-blitz-shame-unhrc-virginia-dandan-enabling-lies/.

53. Those concluding observations and the universal periodic review guided the Independent Expert's mission. Furthermore, he studied the new memorandum of understanding between the United Nations and Ecuador, signed in New York on 22 September 2017, which gives reason for optimism for the exchange of good practices, law enforcement, assistance and international cooperation in criminal matters and in the struggle against corruption.[130]

54. He discussed Ecuadorian initiatives to adopt a United Nations treaty on the social responsibility of transnational corporations,[131] the creation of a United Nations tax body that would coordinate tax policies with a view to phasing out tax competition, tax havens and tax evasion, progress in the adoption of a financial transactions tax, and the support Ecuador gives to the Bolivian initiative on a declaration on the rights of peasants. He also discussed the possible advantages of establishing an independent CELAC human rights court, outside the OAS system, and recalled the optimistic words of then President Rafael Correa at the fourth CELAC summit, held in January 2016:[132] "Everything is done" to have a CELAC human rights system. "The only thing that prevents this from happening is fear".[133] The Independent Expert learned, however, that the creation of a CELAC court is still far off. Meanwhile, the cooperation of CELAC with the European Union, the various joint conferences held and the progress made in advancing human rights and gender equality have generated beneficial results for human rights and the rule of law.[134] With regard to public health issues, he learned about the efforts of Ecuador to promote breastfeeding.[135]

55. With the Ombudsman, the Independent Expert discussed, among other things, his 2016 report on tax evasion and tax havens (A/71/286) and the historic Ecuadorian tax havens law prohibiting elected officials and other public servants from keeping personal assets, including companies and capital, offshore.[136] They discussed the problem of secrecy jurisdictions and the 30 billion dollars of Ecuadorian wealth currently offshore. The Independent Expert welcomed the initiative to ban tax havens internationally.[137] As in many countries in Latin America, Asia, Africa and elsewhere, corruption remains a problem, which the Government of Ecuador is tackling. In this context, the assistance of UNODC in connection with the control of illegal crops[138] and drug trafficking is welcome.

56. In the domestic field, the Independent Expert discussed the Nacional Development Plan 2017–2021 and efforts to reduce inequalities and promote human rights for all. Progress has been slowed down by the fall in oil prices, which has hindered realization of social promises. Moreover, institutional instabilities remain.[139]

57. Civil society representatives informed the Independent Expert that problems remained with obtaining free, prior and informed consent from indigenous persons in

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130 Transparency International, *Global Corruption Report 2017*; www.transparency.org/whatwedo/publication/las_personas_y_la_corrupcion_america_latina_y_el_caribe; www.transparency.org/news/feature/corrupcion_en_ascenso_en_america_latina_y_el_caribe.

131 María Iñiguez Zambrano, "Es compatible la economía mundial con los derechos humanos?" and Carlos Correa, Daniel Uribe y Kinda Mohamdieh, "Prospectiva sobre las empresas transnacionales, otras empresas comerciales y los derechos humanos", *LíneaSur*, vol. 3, No. 11 (January–April 2016).

132 www.itamaraty.gov.br/images/ed_integracao/IV_CELAC_SUMMIT_PoliticalDeclaration_ENG.pdf.

133 www.andes.info.ec/en/noticias/politics/1/president-correa-highlights-celac-space-political-discussion-and-problem-solving.

134 https://eeas.europa.eu/headquarters/headquarters-homepage_en/13042/EU-CELAC%20relations.

135 The Ecuadorian initiative in WHO for a resolution promoting breastfeeding was sabotaged by the United States, which opposed the resolution and put pressure on Ecuador to withdraw it. See Andrew Jacobs, "Opposition to Breast-Feeding Resolution by U.S. Stuns World Health Officials", *New York Times*, 8 July 2018.

136 www.internationalinvestment.net/products/tax/ecuador-lawmakers-approve-historic-tax-haven-law/; www.ecuadorinmediato.com/index.php?module=Noticias&func=news_user_view&id=2818825529.

137 www.coha.org/banning-tax-havens-enemies-of-our-democracies/.

138 www.unodc.org/documents/peruandecuador/Informes/ECUADOR/ecuador_2015_Web_2.pdf.

139 www.lapresse.ca/international/amerique-latine/201009/30/01-4328234-coup-detat-en-equateur-correa-de-retour-au-palais-presidentiel.php.

connection with the extracting industry. Contracts have been granted to foreign investors without consulting the affected communities and a large number of persons have been evicted from their homes. Police have arrested indigenous persons who defend their lands, and courts have indicted indigenous people for resisting evictions, a frequent occurrence in many countries. These and other problems were discussed at the United Nations Conference on Housing and Sustainable Urban Development (Habitat III), held in Quito in 2017, with the participation of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Leilani Farha.[140]

58. Before and after his mission, the Independent Expert held informative conversations with the Foreign Ministers Guillaume Long and María Fernanda Espinosa and with Ambassador Luis Gallegos.

IV. Conclusions

59. As the first United Nations rapporteur to visit the Bolivarian Republic of Venezuela in 21 years,[141] and one of the few to have recently visited Ecuador, the Independent Expert is conscious of his responsibilities and limitations. Six years into the mandate, he has learned that governments are not always the "bad guys". As demonstrated in 13 thematic reports, other players impact on the enjoyment of human rights, including the World Trade Organization, the World Bank, the International Monetary Fund, transnational corporations and some lobbies like the military-industrial-financial complex. These actors often wield more influence than States. Moreover, the national and international economic orders are distorted by bilateral investment treaties, free trade agreements, credit rating agencies, vulture funds, boycotts and unilateral coercive measures, which have often resulted in the suffering of billions of individuals. Rapporteurs should focus not only on States and their failures, but also on other actors and the pervasive lack of accountability.

60. Democratically elected governments possess legitimacy and only they can effectively protect the human rights of persons under their jurisdiction and implement change. Recognizing that in every government there are good and less good politicians, what is important is to persuade them that it is in their interest to adopt measures that will enhance the enjoyment of human rights.

61. Rapporteurs should conduct country visits with a view to helping rather than condemning. Rapporteurs must strive for objectivity, and rigorously observe the code of conduct, particularly article 6. Whereas some civil society organizations think that the goal is "naming and shaming", this rarely brings results, because the "namer" is not always perceived as independent or possessing moral authority. When the country being named has reservations about the integrity and objectivity of rapporteurs or of the Inter-American Commission on Human Rights, OHCHR invitations will not be forthcoming. The incentive for governments is the expectation that rapporteurs will make constructive proposals.

62. The solution to the Venezuelan "crisis" lies in good faith negotiations between the Government and the opposition, an end to the economic war, and the lifting of sanctions. In pursuance of the principle of international solidarity (see A/HRC/35/35), United Nations agencies should provide advisory services and technical assistance to the Government. The Special Rapporteur on the promotion of truth, justice reparation and guarantees of non-recurrence may wish to address the interplay between State crime and international order, both from the positive and the natural law perspective, and formulate recommendations concerning reparations due to populations affected by sanctions and economic war. Rich States should facilitate

[140] www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20669&LangID=E.

[141] The last visit took place in 1996. In its responses of 2005, the Bolivarian Republic of Venezuela elucidated how it had implemented the recommendations (see E/CN.4/2006/6/Add.2, paras. 404–466).

humanitarian assistance in coordination with neutral organizations such as ICRC, the priority being how to effectively help Venezuelans while respecting State sovereignty.

63. **While the Bolivarian Republic of Venezuela is undergoing a severe economic crisis, the Government is not standing idle; it is seeking international assistance to overcome the challenges, diversifying the economy and seeking debt restructuring. Sanctions only aggravate the situation by hindering the imports necessary to produce generic medicines and seeds to increase agricultural production. Sanctions have also led to emigration. The problems of Ecuador partly have to do with the fall in the oil prices. The Government is keenly aware of that and is addressing deficiencies within its possibilities. Again, international solidarity and South-South cooperation will help enhance the human rights of all.**

64. **The Independent Expert wishes to express his appreciation to the Governments of the Bolivarian Republic of Venezuela and of Ecuador for answering his questions and furnishing extensive documentation and statistics. Civil society organizations contributed pertinent analyses that he considered in his evaluation.**

V. Recommendations

65. **The Independent Expert recommends that the Government of the Bolivarian Republic of Venezuela:**

(a) **Continue efforts at dialogue with opposition parties, revive the negotiations hosted in the Dominican Republic by the former prime minister of Spain, José Luis Rodríguez Zapatero, and promote national reconciliation by releasing detainees and granting commutations of sentence;**

(b) **Invite other special procedures mandate holders to visit the country, besides the Special Rapporteurs on unilateral coercive measures and on the right to development, who have already been invited. The Special Rapporteurs on food, on health, on adequate housing, on the independence of judges and lawyers, the Independent Expert on foreign debt, the Special Rapporteurs on the promotion of truth, justice, reparation and guarantees of non-recurrence, on the promotion and protection of the right to freedom of opinion and expression, and on the rights to freedom of peaceful assembly and of association, the Working Group on Arbitrary Detention and other experts would offer valuable expertise;**

(c) **Welcome humanitarian aid offered by governments, the European Union,[142] inter-governmental organizations and the private sector;**

(d) **Continue constructive cooperation with the United Nations treaty bodies and implement their recommendations;**

(e) **Continue cooperation with FAO and WHO and ask UNODC for assistance in combating the scourge of food and medicine smuggling by national and international rings;**

(f) **Strengthen cooperation with ILO, deal expeditiously with contentious cases and implement ILO recommendations, including those related to Case No. 2254, by establishing a social dialogue table and action plan;**

(g) **Strengthen South-South cooperation, including with the Bolivarian Alliance for the Peoples of Our America, the Union of South American Nations, SELA and CELAC. In particular, strengthen technical and institutional cooperation between SELA and the Organization for Economic Cooperation and Development for**

[142] www.consilium.europa.eu/en/press/press-releases/2018/04/19/declaration-by-the-high-representative-on-behalf-of-the-eu-on-the-situation-in-venezuela/?utm_source=dsms-auto&utm_medium=email&utm_campaign=Declaration%20by%20the%20High%20Representative%20on%20behalf%20of%20the%20EU%20on%20the%20situation%20in%20Venezuela.

the promotion of sustainable and inclusive economic growth in Latin America, as well as joint actions in the economic, social and trade areas;

(h) Engage proactively with entrepreneurs and a diverse group of non-governmental actors so as to resolve together the prevailing social and political problems.

66. **The Independent Expert recommends that the Government of Ecuador:**

(a) Expand its cooperation with United Nations agencies;

(b) Strengthen South-South cooperation, including with the Bolivarian Alliance for the Peoples of Our America, the Union of South American Nations, SELA and CELAC, so as to solidify a Latin American model of enforcement of economic, social and cultural rights while advancing civil and political rights;

(c) Continue constructive cooperation with the United Nations treaty bodies, particularly the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, and implement their recommendations;

(d) Continue its leadership in the campaign to negotiate and adopt a legally binding treaty on the social responsibility of transnational corporations;

(e) Continue efforts to establish a United Nations tax body to phase out tax havens and criminalize tax evasion;

(f) Continue defending the sovereignty of States against abuses by investors and transnational corporations and oppose any bilateral investment agreement or free trade agreement that includes investor-State dispute settlement arbitrations.

67. **The Independent Expert recommends that the General Assembly:**

(g) Invoke article 96 of the Charter of the United Nations and refer the following questions to the International Court of Justice: Can unilateral coercive measures be compatible with international law? Can unilateral coercive measures amount to crimes against humanity when a large number of persons perish because of scarcity of food and medicines? What reparations are due to the victims of sanctions? Do sanctions and currency manipulations constitute geopolitical crimes?

(h) Adopt a resolution along the lines of the resolutions on the United States embargo against Cuba, declaring the sanctions against the Bolivarian Republic of Venezuela contrary to international law and human rights law;

(i) Create a consolidated central register of unilateral coercive measures likely to have a human rights impact, to be maintained and updated by the Secretary-General, as proposed by the Special Rapporteur on unilateral coercive measures in his 2015 report to the Geueral Assembly (A/70/345) and his 2017 report to the Human Rights Council (A/HRC/36/44).

68. **The Independent Expert recommends that the Human Rights Council:**

(a) Reaffirm the Code of Conduct for Special Procedures Mandate Holders, particularly paragraphs 3 and 6 concerning their independence and the commitment to evaluate all information in good faith, including submissions by governments;

(b) Defend experts against ad hominem attacks, intimidation and threats.

69. **The Independent Expert recommends that the Office of the United Nations High Commissioner for Human Rights proactively support special procedure mandate holders in the exercise of their professional judgment and independence; facilitate consultation with and coordination among the rapporteurs, including through their Coordination Committee of Special Procedures, and ensure that apparent contradictions emanating from different points of view do not send wrong signals; and implement the decisions on coordination adopted at the 2016 meeting of rapporteurs so as to strengthen the coherence and credibility of special procedures.**

70. **The Independent Expert recommends that the International Criminal Court investigate the problem of unilateral coercive measures that cause death from**

malnutrition, lack of medicines and medical equipment. The examination should not only be quantitative, but should determine whether, objectively treated, economic war, embargoes, financial blockades and sanctions regimes amount to geopolitical crimes and crimes against humanity under Article 7 of the Rome Statute.

71. **The Independent Expert recommends that the meeting of States parties to the Rome Statute continue the normative work on the Rome Statute and recognize geopolitical crimes, including unilateral coercive measures and currency manipulations that induce hyperinflation, as within the scope of Article 7 of the Statute. Normative clarity has significant pedagogical value.**

72. **The Independent Expert recommends that, until the International Court of Justice and the International Criminal Court address the lethal outcomes of economic wars and sanctions regimes, the Permanent Peoples Tribunal, the Russell Tribunal and the Kuala Lumpur War Crimes Commission undertake the task so as to facilitate future judicial pronouncements.**

Annex I

List of stakeholders with whom the Independent Expert met

I. Venezuela

State Institutions

- Ministry of Foreign Affairs
- Ministry of Education
- Minister of University Education, Science and Technology
- Ministry of Social Work
- Ministry of Culture
- Ministry of Health
- Ministry of Indigenous Persons
- Ministry of Women and Gender Equality
- Ministry of Planning
- Ministry of Productive Agriculture and Land
- Ministry for Economy and Finance
- Ministry for Petroleum
- Ministry for Habitat and Housing
- Ministry of Communication and Information
- Ministry of Ecosocialism
- Ministry of Mining
- Ministry of Electric Energy
- Ministry of Public Works
- Ministry of Water
- Ministry of Transport
- Vice Ministry of Happiness
- Vicepresidencia, Consejo Nacional de Derechos Humanos
- Fiscal General
- Banco Central de Venezuela
- National Assembly
- Asamblea Nacional Constituyente
- National Electoral Council
- Defensoria del Pueblo
- Gran Mission Vivienda
- Fundamusical ("El Sistema")

United Nations

- UNHCR
- UNDP

- UNAIDS
- UNICEF
- UNFPA
- FAO

Other inter-governmental organizations

- ALBA
- OAS

Diplomatic community

- European Union Delegation
- Embassy of France
- Embassy of Italy
- Embassy of Britain
- Embassy of Germany

Civil society

- Amnesty International
- Transparency International
- Cáritas
- Espacio Público
- Centro de Derechos Humanos de la Universidad Católica Andrés Bello
- Defensores Derechos Humanos
- Foro Penal
- Federation of Chambers of Commerce of Venezuela (Fedecámaras)
- Observatorio Global de Comunicación y Democracia
- Centro de Justicia y Paz (CEPAZ)
- Venezuelan Education-Action Program on Human Rights (PROVEA)
- Fundación Bengoa
- Asociación Civil Sures
- National Council of Commerce and Services (CONSECOMERCIO)
- Carter Center
- Fundación Latinoamericana por los Derechos Humanos y el Desarrollo Social (Fundalatin)
- Red Nacional de los Derechos Humanos
- Escuela Latinoamericana de Medicina Dr. Salvador Allende (ELAM)
- Father Numa Molina, Professor, Instituto de Estudios Teológicos para Religiosos; Rector, Iglesia San Francisco
- Dr. Pasqualina Curcio, Professor, Universidad Simón Bolívar

Others

- Individual victims whose relatives are detained (names confidential)
- Individual victims of violence during protests (names confidential)

II. Ecuador

State Institutions

- Ministry of Foreign Relations, Political Integration and International Cooperation
- Ambassadors Maria Fernanda Espinosa, Guillaume Long, Luis Gallegos
- Ministry of Justice, Human Rights and Religious Affairs
- Ministry of External Commerce
- Office of the Attorney General
- Internal Revenue Service
- National Planning Secretariat
- Plan Toda Una Vida Secretariat
- Superintendent of Economic Solidarity

United Nations

- UNDP
- UNICEF
- WHO
- FAO
- UN Women

Civil society

- Grupo FARO
- Fundación Regional de Asesoría en Derechos Humanos (INREDH)
- Surkuna
- Episcopal Conference of Ecuador

Others

- Dr. Jose Ayala Lasso, First UN High Commissioner for Human Rights

Annex II

Selected reports, resolutions and statements

- Amnesty International. Report 2017/18: *State of the World's Human Rights*. London, 2018.
- Cumbre de los Pueblos (2018). Declaración Final de la Cumbre de los Pueblos: Por la Articulación Social de Nuestra América. Lima, 14 April 2018.
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Annex III

Acuerdo de Convivencia Democrática

1. Acuerdo de Convivencia Democrática por Venezuela Santo Domingo, República Dominicana, 6 de febrero de 2018

2. Reunidos gobierno y oposición coinciden en la necesidad de acordar un marco político, económico y social que genere avances efectivos en la situación actual de Venezuela.

3. Los objetivos del presente acuerdo son la afirmación de la soberanía nacional, la estabilidad democrática, la gobernabilidad, el pleno respeto de los derechos humanos, las garantías en los procesos electorales, la cooperación ante las coyunturas económico-sociales existentes, afirmar el estado de derecho constitucional, el desarrollo pleno de los derechos políticos y el compromiso por el respeto democrático, el rechazo absoluto a la violencia como instrumento político y una política de reconciliación, como fundamento para la convivencia democrática nacional.

4. El desarrollo de los puntos de este acuerdo estará sujeto al cumplimiento recíproco de todos los compromisos adquiridos.

I. Soberanía y sanciones unilaterales contra Venezuela

5. Gobierno y Oposición acuerdan trabajar conjuntamente para que se revisen y supriman las sanciones unilaterales contra el país, que bloquean capacidades financieras para atender necesidades básicas del pueblo venezolano. Por tanto, se crea una comisión bilateral para las oportunas gestiones en la comunidad internacional. La comisión comenzará a funcionar en un plazo de 48 horas.

6. El gobierno y la oposición ratifican los legítimos derechos de Venezuela sobre el territorio de la Guayana Esequiba, y resaltan su apego irrestricto al Acuerdo de Ginebra de 1966 como único instrumento jurídico válido para dirimir esta controversia territorial y alcanzar amistosamente el arreglo práctico y satisfactorio para ambas Partes.

7. Las Partes rechazan en consecuencia la inexplicable recomendación del Secretario General de la ONU que pretende desviar la aplicación de los medios políticos sucesivos ordenados por el Acuerdo de Ginebra, y dejar la resolución de esta controversia a una peligrosa inercia, desaprovechando la virtud jurídica y pacífica que ofrece este tratado internacional vigente, en armonía con los postulados de paz a los que se debe las Naciones Unidas.

8. Las Partes ratifican su respaldo firme a las acciones que emprenda la República Bolivariana en defensa de sus derechos soberanos sobre el Esequibo.

II. Elecciones

Cronograma electoral y fecha electoral p[illegible]lefinir. Se propuso 22 de abril

9. Garantías del proceso electoral:

a) Se exhorta para que sean seleccionados los dos rectores designados en fecha 13 de diciembre de 2016 por la Sala Constitucional del Tribunal Supremo de Justicia. Estos serán fruto del consenso de los firmantes de este acuerdo.

b) Gobierno y oposición acuerdan proponer al Secretario General de Naciones Unidas se conforme una delegación de acompañamiento y observación electoral, así como una representación de los países acompañantes signatarios de este acuerdo.

c) Se asegurará y favorecerá equidad en el acceso a los medios públicos y privados, y redes sociales nacionales e internacionales en el desarrollo de la campaña electoral.

d) A la fecha de la convocatoria de las elecciones los centros nacionales de votación serán reinstaurados a sus lugares originales y deberá procederse a la mayor difusión pública posible para conocimiento de los electores.

e) Se realizarán todas las auditorías técnicas con los estándares establecidos, no inferiores a los utilizados en las elecciones del 7 de octubre de 2012 y del seis (06) de diciembre de dos mil quince (2015). En particular las citadas auditorías afectarán a todos los componentes del sistema, con protocolos establecidos y presencia de la observación internacional.

f) Se realizará el oportuno sorteo de miembros de mesa con la adecuada notificación a los mismos, y debida supervisión del Poder Electoral.

g) El registro electoral deberá permanecer abierto para las actualizaciones tanto para el interior como para el exterior del país desde el 8 de febrero hasta el 15 de febrero.

h) Las partes se comprometen a reforzar los mecanismos de participación política de los partidos en el sistema democrático.

i) En el seno de la Comisión de Seguimiento y Verificación del Acuerdo, se constituirá un grupo de alto nivel que atenderá los asuntos que se presenten y atenderá el buen desarrollo del proceso electoral. Esta Comisión estará integrada por un representante del gobierno, un representante de la oposición y el ex presidente José Luis Rodríguez Zapatero.

j) Las partes se comprometen a reconocer el resultado de los comicios presidenciales del año 2018, independientemente de los mismos.

III. Fortalecimiento del Estado de Derecho Constitucional

10. Gobierno y Oposición acuerdan crear una comisión política entre la Asamblea Nacional y la Asamblea Nacional Constituyente para la coexistencia institucional.

IV. La Situación Económica y Social

11. Sin menoscabo de las competencias y responsabilidades que tiene el Gobierno Nacional en materia de políticas públicas en el área económica y social, se acuerda:

12. Conformar con carácter inmediato una comisión para el estudio, análisis y formulación de propuestas constructivas para abordar la Situación económica de Venezuela.

13. La presente Comisión estará abierta al trabajo y a las propuestas de los diferentes sectores sociales y podrá solicitar la colaboración de expertos.

14. De manera prioritaria la comisión propondrá medidas para promover el acceso de bienes y servicios a la Población, a través de diversas vías existentes, como supresión de bloqueos financieros, obtención de líneas de financiamiento ante los diversos organismos y entidades internacionales o países dispuestos a cooperar, y en general, cualquier otra vía que pueda contribuir a tal fin.

15. La presente comisión se constituirá en los primeros siete (7) días consecutivos a la firma del presente acuerdo.

V. Comisión de la Verdad

16. La Comisión de la Verdad deberá realizar sus trabajos en el menor lapso posible y presentará un informe en un lapso de 2 meses. Se incorporarán tres (03) representantes de la Oposición y una ONG de larga trayectoria en la promoción y defensa de los derechos humanos, propuesta por la Oposición. La Comisión continuará promoviendo medidas en la dirección de las favorables iniciativas adoptadas el veintitrés (23) de diciembre del año dos mil diecisiete (2017).

17. La finalidad de esta Comisión es la reconciliación, la reparación de las víctimas, La Paz, la justicia, y para una convivencia democrática en Venezuela.

VI. Comisión de Seguimiento y Verificación del Acuerdo

18. La Comisión se constituye al objeto de impulsa, efectuar el seguimiento y cumplimiento de los acuerdos entre Gobierno y Oposición.

19. Estará integrada por (representantes del Gobierno, representantes de la Oposición), el Gobierno de la República Dominicana, los Cancilleres de los países acompañantes que acompañan la firma del presente acuerdo y el ex presidente Rodríguez Zapatero. Se reunirá una vez al mes en el lugar donde se determine.

20. Será presidida y convocada por el gobierno de la República Dominicana.

21. El Gobierno y la Oposición podrán promover convocatorias extraordinarias a través del presidente de República Dominicana.

22. La Comisión de Seguimiento garantizará el cumplimiento de los acuerdos, resolverá las dudas interpretativas y los conflictos que pueda producirse. Su método de decisión será de consenso.

23. Así mismo, la Comisión podrá dirigirse formalmente a gobiernos, organizaciones y entidades internacionales, para solicitar la colaboración en el desarrollo de este Acuerdo, todo ello, desde el respeto a la soberanía de la República Bolivariana de Venezuela.

24. Todos los textos, acuerdos e informes de la Comisión serán depositados en el gobierno de República Dominicana que actuará como fedatario de su autenticidad. La Comisión nombrará un coordinador y una Secretaría Técnica a los que se les facilitará el apoyo necesario para el desempeño de su tarea.

25. La Comisión trabajará por tiempo indefinido y en todo caso revisará el Acuerdo y la necesidad de su mantenimiento, modificación y extinción tras las elecciones presidenciales de dos mil dieciocho (2018).

26. Hecho y firmado en la ciudad de Santo Domingo, República Dominicana, a los seis (06) días del mes de febrero de dos mil dieciocho (2018).

27. Firman,
En representación del gobierno de la República Bolivariana de Venezuela,

_____

En representación de la oposición al gobierno de la República Bolivariana de Venezuela,

_____

Annex IV

Letter from José Luis Rodríguez Zapatero to the opposition[1]

Santo Domingo, Dominican Republic, February 7, 2018

Dear Sir:

After working without rest for two years for a peaceful, democratic coexistence, to overcome the economic and social problems of Venezuela, and with the spirit of reconciliation among all Venezuelans, and after a huge effort of dialogue, sponsored in recent months for the exemplary effort of the President and the Foreign Minister of the Dominican Republic, with the accompaniment of a group of friendly countries, a basic consensus was reached for a great agreement, which represents a real and courageous hope for the future of Venezuela, materialized in a document presented to the parties that responds to the essential proposals discussed during months, namely, the agreement in an electoral process with guarantees and consensus on the date of the elections, the position on the sanctions against Venezuela, the conditions of the Commission of the Truth, the cooperation before the social and economic challenges, the commitment for an institutional normalization and the guarantees for the fulfilment of the agreement, and the commitment for a fully normalized operation and development of democratic politics.

Unexpectedly for me, the document was not signed by the opposition's representation. I am not valuing the circumstances and the reasons, but my duty is to defend the truth and my commitment is not to give up on the achievement of a historic commitment among Venezuelans.

That is why I ask you, thinking of peace and democracy, that your organization formally endorses the agreement that I send you, once the Government has committed to scrupulously respecting what was agreed.

I make this request from my deep conviction in the need of this agreement and from my commitment for its fulfilment.

I await your favourable response;

May you receive a warm greeting.

(Signed) JOSE LUIS RODRIGUEZ ZAPATERO

7 de febrero de 2018

Muy señor mío:

Después de trabajar sin descanso durante dos años por una convivencia pacífica, democrática, de superación de los problemas económicos y sociales de Venezuela, y con el espíritu de reconciliación entre todos los venezolanos, y tras un esfuerzo ingente de diálogo, auspiciado en los últimos meses por el esfuerzo ejemplar del presidente y el canciller de República Dominicana, con el acompañamiento de un grupo de países amigos, se culminó en un consenso básico para un gran acuerdo, que supone una esperanza real y valiente para el futuro de Venezuela, concretado en un documento presentado a las partes que da respuesta a los planteamientos esenciales discutidos durante meses, a saber, el acuerdo en un proceso electoral con garantías y consenso en la fecha de los comicios, la posición sobre las sanciones contra Venezuela, las condiciones de la Comisión de la Verdad, la cooperación ante los desafíos sociales y económicos, el compromiso por una normalización institucional y las garantías para el cumplimiento del acuerdo, y el compromiso para un funcionamiento y desarrollo plenamente normalizado de la política democrática.

De manera inesperada para mí, el documento no fue suscrito por la representación de la oposición. No valoro las circunstancias y los motivos, pero mi deber es defender la verdad

[1] Informal English translation.

y mi compromiso es no dar por perdido el lograr un compromiso histórico entre venezolanos.

Es por ello que le pido, pensando en la paz y la democracia, que su organización suscriba formalmente el acuerdo que le remito, una vez que el gobierno se ha comprometido a respetar escrupulosamente lo acordado. Esta petición la formulo desde mi convicción profunda en la necesidad de este acuerdo y desde mi compromiso por el cumplimiento del mismo.

Espero su respuesta favorable;

Recibas un cordial saludo,

JOSE LUIS RODRIGUEZ ZAPATERO[2]

[2] https://www.google.ch/search?rlz=1C1RUCY_enCH723CH726&ei=TlvfWrSmPIvwUvm4Bg&q=letter+of+jose+luis+rodriguez+zapatero+7+february+2018&oq=letter+of+jose+luis+rodriguez+zapatero+7+february+2018&gs_l=psy-ab.3...2392.16730.0.17178.75.57.0.0.0.0.302.6681.0j32j9j1.43.0...2...0...1.1.64.psy-ab..33.37.5947.0..0j33i160k1j0i67k1j0i131k1j0i22i30k1j0i19k1j0i22i30i19k1j33i22i29i30k1j33i21k1.208.fRqXCfyEzUQ.

Annex V

Open Letter from Noam Chomsky, Danny Glover and 152 others in support of mediation, not sanctions, in Venezuela

We urge the United States and Canadian governments to immediately remove their illegal[1] sanctions against Venezuela and to support efforts at mediation between the government of Venezuela and the nonviolent segments of the political opposition.

We, the undersigned organizations and individuals in the U.S. and Canada, support hemispheric relations based on respect for the sovereignty of all peoples of the Americas. We are deeply concerned by the use of illegal sanctions, whose effect falls most heavily on the poorest and most marginal sectors of society, to coerce political and economic change in a sister democracy.

Polls in Venezuela show that the large majority of Venezuelans oppose sanctions, regardless of their opinion of the Maduro government. Sanctions merely complicate efforts by the Vatican, Dominican Republic, and other international actors to mediate a resolution to the deep polarization in Venezuela. Moreover, sanctions undermine efforts of the democratically elected government and Constituent Assembly to address critical economic issues and determine their own political destiny.

Despite the high-minded rhetoric of officials in Washington and Ottawa, it is not a genuine concern for democracy, human rights, and social justice that drives the belligerent interventionist posture towards Caracas. From former U.S. president Obama's admittedly untrue presidential decree that Venezuela represents a national security threat to the United States, to UN Ambassador Nikki Haley's declaration that Venezuela is "an increasingly violent narco-state" that threatens the world, the use of hyperbole in diplomatic situations seldom contributes to peaceful solutions on the world stage.

It is no secret that Venezuela, unlike Mexico, Honduras, Colombia, Egypt, or Saudi Arabia, is targeted for regime change by the U.S. precisely because of Venezuela's leadership in resisting U.S. hegemony and the imposition of the neoliberal model in Latin America. And of course, Venezuela holds the largest oil reserves in the world, attracting more unwanted attention from Washington.

The U.S. and Canada tried and failed to use the Organization of American States (OAS) to build a bloc to hypocritically evoke the Democratic Charter against Venezuela. Recently, Luis Almagro, the rogue Secretary General of the OAS, went so far as to publicly support the swearing in of a parallel Supreme Court unconstitutionally appointed by opposition legislators and allowed them to use the OAS headquarters in Washington, D.C. for their ceremony — without the approval of any OAS member state. Almagro has thereby delegitimized the OAS, emboldened the most extreme and violent elements of the Venezuelan opposition, and side-lined efforts at mediation.

The U.S.-Canadian sanctions represent a cynical use of coercive economic power to attack a nation that is already dealing with hyperinflation and shortages of basic commodities. While said to be in the name of advancing democracy and freedom, the sanctions violate the Venezuelan peoples' basic human right to sovereignty, as outlined in the UN and OAS Charters.

We call on the political leaders of the United States and Canada to reject overheated rhetoric and to contribute to the search for real solutions to Venezuela's political and economic problems. We urge the U.S. and Canadian governments to rescind their sanctions

[1] Chapter 4 Article 19 of the OAS Charter states: No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. The foregoing principle prohibits not only armed force but also any other form of interference or attempted threat against the personality of the State or against its political, economic, and cultural elements.

and support the mediation efforts pursued by the Chancellor of the Dominican Republic Miguel Vargas, the President of Dominican Republic Danilo Medina, former Spanish Prime Minister José Luis Rodríguez Zapatero, the Vatican, and supported by a growing number of Latin American nations.

Annex VI

Statement from 47 human rights organizations and social movements on the declarations of the Inter-American Commission on Human Rights and the Office of the United Nations High Commissioner for Refugees on human mobility in Venezuela

On March 13, 2018, the United Nations Refugee Agency (UNHCR) has released guidelines and issued statements for governments to address the situation of people in need of international protection and humanitarian assistance, for "the continued departure of Venezuelans towards neighbouring countries and other countries in the region and the world" according to its statements.

On March 14, 2018, the Inter-American Commission on Human Rights issued resolution 2-18, "Forced Migration of Venezuelan People," in which it urges the member States of the OAS to take certain actions with regard to Venezuelan citizens who are leaving the country.

In view of these measures, the undersigned organizations express we share the concern stated by the UNHCR and the IACHR regarding the situation of Venezuelan nationals, including those who have dual citizenship, who have voluntarily mobilized outside the national territory to reside and develop their life projects in foreign countries. Particularly, because in some countries there have been serious violent incidents of xenophobia and racism against Venezuelans, as well as public policies and discriminatory governmental actions in open violation of their human rights.

However, we disagree with the analysis of the situation carried out by both the UNHCR and the IACHR, because in the studies conducted by the interdisciplinary team of Sures based on the information available in Venezuela from reliable, safe, impartial and scientific sources, concluded that the main cause that motivates the voluntary mobilization of Venezuelans to other countries is the economic situation. The vast majority of people who have mobilized have made that decision voluntarily, without any duress or coercion. In addition, we wish to express our deepest concern that the UNHCR and the IACHR have not expressly referred, or even considered in their evaluation and diagnosis of the Venezuelan reality, the impact generated by coercive diplomacy and, especially, the unilateral sanctions adopted by the government of the United States of America, as well as by other European States, against the economic and social development of our country.

The unilateral commercial and financial sanctions imposed on the Venezuelan State and people constitute one of the main causes of the economic crisis in Venezuela and the violation of the social rights of our majorities. Likewise, they obviously constitute interference in the internal affairs of our country and an open violation of the fundamental principles of Public International Law and the Charter of the United Nations. For these reasons, because both the UNHCR and the IACHR are aware of these unilateral sanctions, it is inexplicable and unjustifiable that they have omitted even mentioning these actions; if they had been congruent with their mandate they had to condemn them in a public and severe manner.

Finally, we wish to reiterate that in Venezuela there is no "humanitarian crisis" under the terms and conditions contemplated in International Public Law and in the International Law of Human Rights. Therefore, the measures to be adopted must not be based on that mistaken interpretation of our realities. There is certainly an economic crisis with a serious impact on the enjoyment of social human rights, as pointed out by the Independent Expert of the United Nations Alfred de Zayas, after an on-site visit to our country, where he points "Venezuela suffers an economic war, a financial blockade, suffers a high level of smuggling and of course needs international solidarity to solve these problems". For these reasons, we urge the UNHCR and the IACHR

1. To continue its efforts to guarantee the human rights of Venezuelan nationals who have voluntarily mobilized to reside in other countries, within the framework of the right to human mobility, in view of the incidents of discrimination, intolerance, xenophobia and racism attributed to the receiving States and societies.

To publicly denounce and condemn the unilateral coercive sanctions imposed against Venezuela by the government of the United States of America and other European States, which have generated and exacerbated the economic and human rights situation of the Venezuelan people.

Signatories:

1. SURES. Estudios y Defensa en Derechos Humanos.
2. ABECYT
3. Alianza Lambda de Venezuela.
4. Asociación de Víctimas del Caracazo (ASOVIC)
5. Asociación Nacional de Consejeros y Consejeras de Protección de Niños, Niñas y Adolescentes
6. Bloque Socialista de Liberación Homosexual
7. Centro de Derechos Humanos Fray Bartolomé de las Casas. México
8. Centro de Formación Guayana
9. Centro Internacional de Estudios Jurídicos y Derechos Humanos "Nelson Mandela"
10. Centro Juvenil de Derechos Humanos
11. Círculos Bolivarianos Socialistas de Costa Rica
12. Colectivo Género con Clase
13. Colectivo Socioambiental Marahuaka
14. Comité de Solidaridad con Venezuela y la Revolución Bolivariana – Costa Rica
15. Comité de Unidad Campesina de Guatemala
16. Comité de Víctimas de la Guarimbas y el Golpe Continuado
17. Comité de Víctimas del Sicariato Campesino
18. Consejo Nacional de la Sexo Diversidad
19. Consejo Presidencial del Poder Popular de la Sexo Diversidad
20. Embajada de Derechos Humanos
21. Federación de Organizaciones y Juntas Ambientalistas de Venezuela (FORJA)
22. Frenadeso. Panamá
23. Frente Internacional Popular Constituyente Antiimperialista (FIPCA)
24. Frente Nacional de Lucha de la Clase Trabajadora (FNLCT)
25. Fundación Radio Negro Primero
26. Fundación Reyes de Corazón
27. Fundación Venezolana por el Derecho a la Vivienda
28. Fundalatin
29. Izquierda Unida
30. Juventud Obrera Católica (JOCA)

31. Movimiento de campesinos y campesinas Tomasote.
32. Movimiento de Integración y Emancipación de Derechos Humanos del Sur (MOVIEDHS)
33. Movimiento de Mujeres Clara Zetkin
34. Movimiento Nacional de Amistad y Solidaridad Mutua Venezuela-Cuba
35. Movimiento Nacional Revolucionario Poder Popular (ENRED)
36. Movimiento Periodismo Necesario
37. Mundo Sin Fronteras Venezuela
38. Observatorio de Derechos Humanos de los Pueblos.
39. Observatorio Nacional para las Investigaciones Penitenciarias
40. Pacto Mundial Consciente Venezuela
41. Plataforma de Mujeres Lesbianas Revolucionarias de Venezuela
42. Plataforma Socialista Golpe de Timón
43. Puente Sur
44. Red Antiimperialista
45. Red de Colectivos La Araña Feminista.
46. Rompiendo la Norma
47. Voluntariado de Participación y Activismo Social (VOLPAS)

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